

THE QUESTION OF CAPITAL PUNISHMENT



AUGUST-SEPTEMBER 1927

The Question of Capital Punishment

**Powers and Limitations of Congress and the States
Present Federal and State Laws Dealing With Capital Crime
Should Capital Punishment Be Retained?**

Arguments Pro and Con

by

**Members of Congress, Judges, Attorneys, Wardens,
Editors, Publishers, Authors, Ministers and Penologists**

Other Regular Features



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The Congressional Digest

Volume VI

AUGUST-SEPTEMBER, 1927

Number 8-9

Special Feature This Month

The Question of Capital Punishment

Power and Limitations of Congress and the States
Laws passed by Congress Dealing with Capital Crime
Synopsis of State Laws Dealings with Capital Crime

Bills in 69th Congress to Amend Capital Crime Laws
Extent of Federal Crime Statistics
Glossary of Legal Terms Used in this Issue

Pro and Con Discussion: Should Capital Punishment be Retained?

What the United States Constitution Provides

Powers and Limitations of Congress and the States In Dealing with the Punishment of Crime

Authority under which Capital Punishment Laws have been passed by Congress and the States

NOTE.—Although the Constitution contains no grant, general or specific, to Congress of the power to provide for the punishment of crimes, except piracies and felonies on the high seas, offenses against the law of nations, treason, and counterfeiting the securities and current coin of the United States, no one doubts the power of Congress to provide for the punishment of all crimes within one of the States of the Union or within the territory over which Congress has plenary and exclusive jurisdiction.—“Constitution of the United States of America, Annotated 1923” [Compiled by George Gordon Payne, under direction of Hon. Charles Curtis (Kansas), Chairman, Senate Committee on Rules.]

ART. I, Sec. 8, Par. 10.—(Congress shall have power)—
To define and punish Piracies and Felonies committed on the high seas and Offenses against the Law of Nations.

Art. I, Sec. 8, Par. 18.—(Congress shall have power)—
To make all Laws which shall be necessary and proper for carrying into Execution . . . all . . . Powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof.

Art. 3, Sec. 2, Par. 3.—The trial of all Crimes, except in cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Art. 3, Sec. 3, Par. 1.—Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Art. III, Sec. 3, Par. 2.—The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

Amend. V.—No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any

criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

Amend. VI.—In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amend. VIII.—Excessive bail shall not be required, nor excessive fines imposed nor cruel nor unusual punishments inflicted.

Amend. XIV, Sec. 1.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Authorization for Military Codes

Art. I, Sec. 8, Par. 14.—(Congress shall have Power)—
To make Rules for the Government and Regulation of the land and naval Forces.

Art. II, Sec. 2, Par. 1.—The President shall be Commander in Chief of the Army and Navy of the United States;

and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices. * * *

Authority to Legislate for District of Columbia and Territories

Art. I, Sec. 8, Par. 17—(The Congress shall have Power)—To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings—

Art. 4, Sec. 3, Par. 2—The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the

United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Power to Establish Consular Courts

Art. II, Sec. 2, Par. 2—He [the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; * * *

The Pardoning Power of the President

Art. II, Sec. 2, Par. 1—* * * and he [the President] shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

Powers Reserved to States

Amend. X—The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Laws Passed by Congress Dealing with Capital Crime

The Criminal Code—The Military Code—Consular Courts—Laws in Possessions

The Criminal Code of the United States Dealing with Capital Crime

History—Provisions—Administration—Procedure

History

1790—The Congress passed Acts declaring that every person guilty of murder in the first degree or of rape should suffer death and that the method of inflicting death should be by hanging.

1862—The Congress passed an Act declaring that whoever was convicted of treason should suffer death; or, at the discretion of the court, be imprisoned for not less than five years and be fined not less than \$10,000, to be collected out of his property.

1875—The Acts of 1790 were amended to provide that in all cases where the accused is found guilty of murder in the first degree or rape, the jury may qualify their verdict by adding thereto "without capital punishment," in which

case the person convicted shall be sentenced to imprisonment for life.

1878—All Federal Statutes, which had been known as Statutes at Large, were assembled and re-codified under the title of "Revised Statutes of the United States." In this compilation were included all statutes dealing with crime.

1910—All Acts of Congress covering crime were assembled and codified under the title of "The United States Criminal Code."

1926—All Acts of Congress, including those dealing with crime, were reassembled, retitled and recodified under the title of "The United States Code of 1926."

Provisions

Note—The numbers of the sections quoted are those of the United States Criminal Code of 1910. The numbers in parentheses are those used in the United States Code of 1926.

Sec. 2 (Sec. 2)—Whoever is convicted of treason shall suffer death; or, at the discretion of the court, shall be imprisoned not less than five years and fined not less than ten thousand dollars, to be levied on and collected out of any or all of his property, real and personal, of which he was the owner at the time of committing such treason, any sale or conveyance to the contrary notwithstanding; and every person so convicted of treason shall, moreover, be incapable of holding any office under the United States.

Sec. 273 (452)—Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a

premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree. Any other murder is murder in the second degree.

Sec. 275 (454)—Every person guilty of murder in the first degree shall suffer death.

Sec. 278 (457)—Whoever shall commit the crime of rape shall suffer death.

Sec. 311 (511)—Except as otherwise expressly provided the offenses defined in this chapter shall be punished as hereinafter provided, when committed within any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States.

Sec. 323 (542)—The manner of inflicting punishment of death shall be by hanging.

Sec. 326 (547)—Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.

Sec. 330 (567)—In all cases where the accused is found

guilty of the crime of murder in the first degree, or rape, the jury may qualify their verdict by adding thereto "without capital punishment" and whenever the jury shall return a verdict qualified as aforesaid the person convicted shall be sentenced to imprisonment for life.

Administration

THE United States Department of Justice is the department of the Federal Government having supervision over the prosecution of cases involving violations of the general criminal laws of the United States. An Assistant Attorney General is in charge of the Criminal Division of the Department, which exercises supervision over all United States Attorneys engaged in criminal prosecutions. In this

connection the Division advises and counsels with the United States Attorneys, with reference to investigations, grand jury proceedings, preparation of indictments, removal proceedings and trials. Under the direction of the Solicitor General it also supervises appeals from the United States district courts to the circuit courts of appeals, and, in cases before the Supreme Court, prepares briefs on behalf of the Government.

Federal Jurisdiction

UNDER the provisions of the United States Criminal Code, Federal Courts have jurisdiction over capital crimes:

"First. When committed upon the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, or when committed within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State on board any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States or of any State, Territory or District thereof.

"Second. When committed upon any vessel, registered, licensed or enrolled under the laws of the United States,

and being on a voyage of any of the Great Lakes, * * * or any of the waters connecting any of the Great Lakes or upon the River Saint Lawrence where the same constitutes the International Boundary line.

"Third. When committed within or on any lands reserved or acquired for the exclusive use of the United States, and under the exclusive jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the Legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard or other needful building.

"Fourth. On any island, rock or key, containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States."

Procedure for Appeal

ONE accused of a capital crime committed within the jurisdiction of the Federal Courts is first brought to trial before a United States District Court. Appeal may be had from the District Court to a United States Circuit Court of Appeals, by right, on a writ of error. Appeal from a United States Circuit Court of Appeals may be had to the Supreme Court of the United States on a writ of certiorari. The granting of the appeal and the issue of the writ of certiorari is wholly within the discretion of the Supreme Court.

The Judicial Code of the United States provides* that "the trial of offenses punishable with death shall be had in the

county where the offense was committed where that can be done without great inconvenience."

This Code also provides that "the trial of all offenses committed on the high seas or elsewhere out of the jurisdiction of any particular State or district shall be in the district where the offender is found or into which he is first brought."

The same code provides that "when any offense against the United States is begun in one judicial district and completed in another it shall be deemed to have been committed in either and may be dealt with, inquired of, tried, determined and punished in either district, in the same manner as if it had been actually and wholly committed therein."

Construction of United States Courts

The courts established by Act of Congress pursuant to authorization by the Constitution of the United States (Art. III, Sec. 1) are as follows:

(1) The Supreme Court of the United States, which is the highest court of the land and from the decisions of which there is no appeal. The Supreme Court sits in Washington, its rooms being in the Capitol building. There are nine judges of the Supreme Court (appointed for life): One Chief Justice and eight Associate Justices, all of whom are appointed for life. The present members of the Court are: Chief Justice, William Howard Taft, Ohio; Associate Justices, Oliver Wendell Holmes, Massachusetts; Willis Van Devanter, Wyoming; James Clark McReynolds, Tennessee; Louis Dembitz Brandeis, Massachusetts; George Sutherland, Utah; Pierce Butler, Minnesota; Edward Terry Sanford, Tennessee; Harlan F. Stone, New York.

(2) The Circuit Courts of Appeals of the United States, of which there are nine. The Circuit Courts of Appeals are intermediate courts interposed between the U. S. District Courts and the U. S. Supreme Court to simplify the Federal judicial system and to expedite justice. They pass upon questions of law and fact on appeal by writ of error from the District Courts. Appeal is had from the Circuit Courts of Appeals to the U. S. Supreme Court on writs of certiorari. A member of the Supreme Court has supervision over the work of one of each of the nine Circuit Courts of Appeals. There are 34 Circuit Judges (appointed for life).

(3) The United States District Courts. There are 91 Federal Judicial Districts, of which 84 are in the continental confines of the United States and 7 are in territories, including Hawaii (1); Porto Rico (1); Alaska (4) and the Panama Canal Zone (1). There are 132 United States District Judges, who are appointed for life.

*Sections 40, 41, 42, United States Judicial Code.

The Military Code Dealing with Capital Crime

The United States Army

The Articles of War.

THE Articles of War for the government of the Army which were in force at the time of the adoption of the United States Constitution were by Act of the First Congress made to apply to the then existing Army. These articles were continued in force by successive enactment until April 10, 1806, when Congress revised them to conform with the Constitution. New articles were added following the war of 1812 and the Civil War, and in 1874 a complete restatement of the articles was made and appeared in the Revised Statutes of 1874. These were subsequently amended in 1890, 1898 and 1910, the last revision being made in 1920.

Penalties for Capital Crime.

Under the Articles of War, as revised in 1920, the death penalty, or such other punishment as a court-martial may direct, may be imposed for the following crimes:

IN TIME OF WAR.

Desertion or advising or aiding desertion.
Misbehavior before the Enemy.
Subordinates compelling Commander to surrender.
Improper use of countersign. Forcing a safeguard.
Relieving, correspondence with, or aiding the Enemy.
Misbehavior before the Enemy.
Spies.—Death (unconditional).

IN TIME OF WAR OR PEACE.

Assaulting or wilfully disobeying superior officer.
Mutiny or sedition.

Failure to suppress mutiny or sedition.

Murder or rape.—Death or imprisonment for life.
(If committed within geographic limits of the United States in time of peace, not tried by court-martial, but by Federal or State Court.)

Procedure.

The accused shall be tried by a general court-martial composed of not less than five members, one of whom shall be an officer of the Judge Advocate General's Department or an officer specially qualified to perform the duties of a law member.

Under the procedure of the military courts-martial the accused has the right to select counsel, either military or civil, or shall have counsel assigned him.

To inflict the death penalty the vote must be taken by written ballot and must be unanimous.

All sentences imposing death must be approved by the President of the United States except in time of war when those persons convicted of murder, rape, mutiny, desertion or of being spies may be executed upon confirmation by the commanding general in the field or the territorial department of a division.

In time of peace no person subject to the military law who commits murder or rape within the geographical jurisdiction of the United States shall be tried by courts-martial. He shall be surrendered by the armies to the civil authorities, either State or Federal, upon a written order secured by the commanding officer from the Secretary of War.

The United States Navy

Articles for the Government of the Navy.

RULES for the regulation of the Navy of the United Colonies were adopted by the Continental Congress on November 28, 1775, and were re-enacted by Congress in 1797. On March 2, 1799, Congress passed an "Act for the government of the Navy of the United States," which was followed by an "Act for the better government of the Navy of the United States," approved April 23, 1800, and by an "Act to provide a more efficient discipline for the Navy," approved March 2, 1855, and later by the act "for the better government of the Navy of the United States," approved July 17, 1862. These acts are the principal sources of the present "Articles for the Government of the Navy," which were last revised in 1923.

Penalties for Capital Crime

Under the Articles for the Government of the Navy, as revised in 1923, the Death Penalty, or such other punishment as a court-martial may adjudge, may be imposed for the following crimes:

IN TIME OF WAR.

Giving intelligence or entertaining intercourse with enemy or rebel.
Receiving message or letter from enemy or rebel without informing superior officer.
Desertion or aiding desertion. Betraying trust.
Surrender without authority.
Cowardice, negligence or disaffection. Desertion of duty.
Not observing orders to utmost in sight of enemy.
Neglecting to prepare ship for action.
Failure to use utmost exertions to join in battle.
Failure to encourage inferior officers and men.

Failure to do utmost to overtake and capture vessel.

Failure to afford all practicable relief to vessels of United States and allies.

Spies.

IN TIME OF WAR OR PEACE.

Mutiny or failure to suppress mutiny.
Disobedience of orders.
Assault or attempt to assault superior officer.
Sleeping on watch or leaving station before relieved.
Intentionally permitting damage to a vessel of the Navy.
Arson.
Murder or rape (outside territorial jurisdiction of U. S.)

Procedure.

The accused shall be tried by a general court-martial composed of not more than thirteen nor less than five commissioned officers, and as many officers not exceeding thirteen, as can be convened without injury to the service shall be summoned on every such court.

Under the procedure of the Navy courts-martial the accused has the right to select counsel, either military or civil, or shall have counsel assigned him.

The death penalty may be imposed by a Navy courts-martial by a two-thirds vote.

All sentences imposing death must be approved by the President of the United States.

No person subject to the naval law who commits murder or rape within the geographical jurisdiction of the United States shall be tried by court-martial. He shall be surrendered by the naval to the civil authorities, either State or Federal, upon a written order secured by the commanding officer from the Secretary of the Navy.

Consular Courts and Capital Crimes

IN certain foreign countries in which the United States has acquired, through treaty, custom and usage, extraterritorial rights, United States Ministers and Consuls are invested, by Act of Congress, with judicial authority, so far as allowed by treaty and in accordance with the usages of the country. (See U. S. Code of 1926—Sec. 14.) Under this authority, United States Consuls are empowered to form courts for the trial of American citizens in that country and inflict capital punishment, subject to the approval of the United States Minister to the country.

The crimes for which consular courts may inflict capital punishment are insurrection or rebellion against the Government or against the United States, with intention to subvert the same, and murder.

Those countries in which United States Ministers and Consuls at present are vested with judicial authority are China, Morocco, Egypt, Turkey, Syria, Persia, Abyssinia, Siam and Muscat.

In addition to the Consular Courts, a special instance of the application of United States judicial powers outside the

territory or possessions of the United States is the United States Court in China. Congress, under treaty agreements, by the Act of June 30, 1906, established a regular United States Court in China from the decisions of which appeal may be had to the (ninth) United States Circuit Court of Appeals (in California). Most of the cases in China which would ordinarily go before the consular courts are now taken to the regular United States Court.

Procedure in Consular Courts.

Under the procedure in consular courts, the consul acts as judge, together with three associates chosen by him from among American citizens resident in the section of the country where the crime was committed. If their decision in capital cases is unanimous and is approved by the United States Minister, the Minister is empowered to inflict the death penalty. No records exist at the Department of State to show that the death penalty was ever inflicted, although there have been several cases of a verdict of life imprisonment. In all these instances those convicted have been brought to the United States to serve their terms in Federal penitentiaries.

The District of Columbia Code Dealing with Capital Crimes

SINCE Congress by the Act of June 16, 1790, accepted territory ceded to the United States by Maryland and Virginia to form the District of Columbia, it has enacted general and specific statutes for the government of the District. Under the Act of March 3, 1901, Congress established a Code for the District of Columbia.

Provisions.

This Code provided the death penalty for first degree murder. Section 801 of the Code provided that the execution of the death penalty should be by hanging. This Section was amended by the Act of Congress of June 30, 1925, to provide electrocution as the method of execution. Section 808 of the Code provides that the penalty for rape shall be not exceeding thirty years in the penitentiary, provided that the jury may qualify its verdict by adding "with the death penalty."

Penalty for the crime of Treason is not specified in the District of Columbia Code, but Treason in the District of Columbia would be punishable by death (or imprisonment) under the General Federal Statutes.

Procedure.

Under the District of Columbia Code of 1901 an offender charged with a capital offense is first arrested by the Police

and taken to a police station. He may be retained at the police station or sent to the Washington Asylum and Jail in the discretion of the Chief of Police pending the consideration of his case by the Grand Jury. If indicted by the Grand Jury, he is arraigned in one of the two Criminal Branches of the Supreme Court of the District of Columbia, a single judge of which court sits in each criminal branch. If held for trial by the judge before whom he appears, he is sent to jail pending his trial. The question of whether he may be released on bail is left to the discretion of the judge before whom he is taken.

If convicted, after trial in one of the criminal branches of the Supreme Court of the District of Columbia, he may, as a matter of right, appeal to the Court of Appeals of the District of Columbia. If he has not been admitted to bail, he must remain in jail pending action on his appeal.

If his conviction is confirmed by the Court of Appeals, he may then apply to the Supreme Court of the United States on a writ of certiorari. His application for a writ of certiorari must be accompanied by a brief by his counsel which is presented by the counsel to the Clerk of the Supreme Court of the United States, who presents it to the Court. The Clerk also transmits to the counsel for the offender the finding of the Court. The counsel for the offender does not at any time appear before the Supreme Court nor have any direct communication with the Justices.

Status of Laws Dealing with Capital Crime in U. S. Possessions

Alaska—Hanging or life imprisonment. Murder, murder by obstructing or injuring railroad. Laws of the Territory of Alaska 1913. Congress has supreme legislative authority.

Hawaii—Hanging or life imprisonment. Murder, arson. Revised Laws of Hawaii 1925. Congress has the supreme legislative authority.

Guam—Hanging or life imprisonment. Murder. Penal Code for the Philippines 1900, modified by gubernatorial orders. Congress has the supreme legislative authority.

Samoa—Hanging or life imprisonment. Murder. Code of the regulations and orders for the Government of American Samoa 1921. Congress has the supreme legislative authority.

Virgin Islands—Life imprisonment. Murder. Code of Laws of the Municipality of St. Thomas and St. John. Congress has the supreme legislative authority.

Philippines—Hanging or life imprisonment. Murder, parricide, arson, treason. Penal Code of the Philippines of 1900. Congress has the supreme legislative authority.

Porto Rico—Hanging or life imprisonment. Murder. Revised Statutes and Codes of Porto Rico 1913. Congress has the supreme legislative authority.

Panama Canal Zone—Hanging or life imprisonment. Murder. Code of Isthmian Canal Commission of 1904-1914, now in effect. Congress has the supreme legislative authority.

Synopsis of State Laws Dealing with Capital Crime

Note.—The dates listed below indicate the date the State code referred to in making up this compilation was last revised and not the date on which the law, as given, was passed. The crimes listed are those indicated by the State laws as capital crime subject to the penalty indicated. Where a choice between the death penalty and capital punishment is indicated, the decision lies with the court or the jury. These penalties are, of course, subject to the pardoning power of the Governor of the State.

Source.—Compiled from tables presented by Margaret W. Stewart and Raymond E. Manning, Library of Congress, 1926; Dr. Louis N. Robinson in "Penology in the United States," 1923; Lamar T. Beman in "Capital Punishment," 1925; Lewis E. Lawes in "Man's Judgment of Death," 1923.

Summary of Table

States where capital punishment is retained absolutely.....8 States where capital punishment is abolished.....8
 States where capital punishment is retained conditionally.....32
 (the court or jury being permitted to choose between life imprisonment and the death penalty.)

Alabama—(1923) Electrocuting or life imprisonment. Murder, rape, arson, robbery, treason.

Arizona—(1919) Hanging or life imprisonment. Murder, treason. Abolished 1916. Re-established 1918.

Arkansas—(1921) Electrocuting or life imprisonment. (Formerly death penalty absolute.) Murder, rape.

California—(1920) Hanging or life imprisonment. Murder. Abolished for persons under 18 years of age.

Colorado—(1921)—Hanging or life imprisonment. Murder. Abolished 1897. Re-established 1901.

Connecticut—(1918) Hanging. Murder.

Delaware—(1915) Hanging or life imprisonment. (Formerly death penalty absolute.) Murder, rape, arson, treason, burglary, kidnapping.

Florida—(1923) Electrocuting or life imprisonment. Murder, rape.

Georgia—(1924) Electrocuting or life imprisonment. (Formerly death penalty absolute.) Murder, rape, certain arsons, treason.

Idaho—(1919) Hanging or life imprisonment. Murder.

Illinois—(1923) Hanging or life imprisonment. Murder, kidnapping for ransom.

Indiana—(1926) Electrocuting or life imprisonment. Murder, treason.

Iowa—(1924) Hanging or life imprisonment. Murder. Abolished 1872. Re-established 1878.

Kansas—Abolished 1907. Law of 1872 required imprisonment of 1 year for persons sentenced to death before order of governor for execution.

Kentucky—(1922) Electrocuting or life imprisonment. Murder, rape.

Louisiana—(1920) Hanging or life imprisonment. Murder, rape, arson, homebreaking, lying in wait with weapon with intent to kill.

Maine—Abolished 1876. Re-established 1882. Abolished 1887. For a number of years had law similar to Kansas law of 1872.

Maryland—(1924) Hanging or life imprisonment. Murder, rape, arson, attempted rape.

Massachusetts—(1921) Electrocuting. Murder.

Michigan—(1915) Abolished 1847.

Minnesota—Abolished 1911.

Mississippi—(1917) Hanging or life imprisonment. Murder, rape, certain arsons, treason.

Missouri—(1919) Hanging or life imprisonment. Murder, rape, first degree robbery, with firearms or other deadly weapons. Abolished 1917. Re-established 1919.

Montana—(1921) Hanging or life imprisonment. Mur-

der, treason. Causing death of innocent persons by perjury.

Nebraska—(1922) Electrocuting or life imprisonment. Murder.

Nevada—(1921) Administration of lethal gas or life imprisonment. Murder, rape.

New Hampshire—(1926) Hanging or life imprisonment. Murder.

New Jersey—(1910) Electrocuting or life imprisonment. (Formerly death penalty absolute.) Murder, treason.

New Mexico—(1915) Hanging. Murder.

New York—(Code of Crim. Proc.) Electrocuting. Murder, treason.

North Carolina—(1919) Electrocuting. Murder, rape, arson, burglary.

North Dakota—Abolished 1915. Except for murder committed by person serving sentence for a previous murder.

Ohio—(1926) Electrocuting or life imprisonment. Murder.

Oklahoma—(1921) Electrocuting or life imprisonment. Murder, rape.

Oregon—(1921) Method not prescribed. Abolished 1915, but re-established in 1920.

Pennsylvania—(1920) Electrocuting. Murder.

Rhode Island—(1923) Abolished 1852. Except for murder committed by person serving life sentence.

South Carolina—(1922) Electrocuting or life imprisonment. Murder, rape, attempted rape.

South Dakota—(1919) Abolished 1915.

Tennessee—(1919) Electrocuting or life imprisonment. Murder, rape. Abolished 1915. Re-established 1917.

Texas—(1923) Electrocuting or life imprisonment. Murder, rape, robbery with firearms.

Utah—(1917) Hanging, shooting, or life imprisonment. Murder.

Vermont—(1917) Electrocuting. Murder, arson. In 1911 the enforcement of the death penalty was limited to cases in which juries demanded its infliction. Re-established in 1913.

Virginia—(1919) Electrocuting or life imprisonment. Murder, rape, certain arsons, treason, burglary, robbery with violence.

Washington—(1922) Hanging or life imprisonment. Abolished 1913. Re-established 1919.

West Virginia—(1923) Hanging or life imprisonment. Murder, rape.

Wisconsin—Abolished 1853.

Wyoming—(1920) Hanging or life imprisonment. Murder, train wrecking or robbery, executed or attempted.

Bills in 69th Congress to Amend Federal Laws Dealing with Capital Crime

Bill to Amend Federal Criminal Code.

A BILL, H. R. 12753—"to provide punishment for killing or assaulting Federal officers," was introduced in the first session of the Sixty-ninth Congress by Mr. Graham (Pa.) and referred to the House Committee on the Judiciary. The bill was not reported to the House for action. This bill was introduced in pursuance of recommendations made by the United States Attorney General's office. In the annual report of the Attorney General for the year ending June 30, 1926, he says, "I recommend the enactment of H. R. 12753, which would make it a Federal offense and provide a penalty therefor to kill or forcibly resist, oppose, impede, intimidate, or interfere with any civil officer or employee of the United States while engaged in or on account of the performance of his official duties. Existing law (sec. 140, C. C.) merely makes it an offense to resist or interfere with or assault, beat or wound any officer or other person duly authorized in serving or attempting to serve or execute process of the United States courts."

Bills to Amend District of Columbia Code.

Two bills to abolish capital punishment in the District of

Columbia were introduced in the House and one in the Senate during the Sixty-ninth Congress; one, H. R. 349, by Mr. Kvale (Minn.), and the other, H. R. 4498, by Mr. McLeod (Mich.). The House bills were referred to the House Committee on the District of Columbia. The Senate Bill, S 1925, was introduced by Mr. Shipstead (Minn.) and was referred to the Senate Committee on the District of Columbia. Public hearings were held on the House bills before the sub-committee on Judiciary of the House Committee on the District of Columbia on January 28 and 30, and February 1, 2, 4, 8, 11 and 13, 1926, and on April 14, 1926, the bill, H. R. 4498, was favorably reported to the House (H. Rept. 876) from the Committee on the District of Columbia. The bill was referred to the House Calendar but did not receive action by the House before final adjournment. Both House bills carried the approval of the Board of Commissioners of the District of Columbia. Though their respective provisions differed in some respects, their joint object was to amend sections 801 and 808 of the Code of Law for the District of Columbia by providing for the abolishment of the death penalty and substituting in lieu thereof imprisonment for life or for a term of years.

The Extent of Federal Crime Statistics

THE official statistics compiled by the Federal Government covering capital crime are those of the Bureau of the Census of the U. S. Department of Commerce. These statistics, which are published annually by the bureau, consist of a general table of death rates in the United States from homicide of all kinds, not only those subject to the death penalty. The last table made public was that of 1925, which contained the death rates from homicide per 100,000 population in the death registration area of the United States for the year 1925. (This area in 1925 included 89.4 per cent of the total population of the United States). Beginning January 1, 1927 the Bureau of the Census undertook the compilation of additional statistics explained by Mr. W. M. Stewart, Director of the Census, in the following statement from "A Manual for the Use of Penal Institutions, Police Departments, Courts, Prosecutors, and Parole and Probation Agencies":

"Commencing January 1, 1927, the Bureau of the Census will take, annually, a census of the prisoners in Federal and State prisons and reformatories. This annual census is to follow the same general lines as the decennial census of prisoners, which it is designed to supplement rather than to supersede. The plan is to cover only a few outstanding facts in the annual census and to have the more detailed investigations to be made once in 10 years, as heretofore.

The lack of adequate criminal statistics has long been a weak point in the administration of criminal justice in the United States. In many cities and States police departments, courts, and penal institutions neither compile nor publish any criminal statistics whatsoever. Further, where such statistics are published, they are not compiled in accordance with any standard plan.

The annual census of prisons and reformatories will alleviate but will not completely remedy, the present lack of

adequate criminal statistics; for this census will include only offenders in Federal and State prisons and reformatories. While one might wish that the annual census could cover other offenders as well, it will, in fact, cover the most important part of the field.

Federal and State prisons and reformatories are in a position to make a prolonged and careful investigation into the past, present, and probable future of their charges. Not only do these institutions keep their prisoners long enough to become thoroughly acquainted with each one and to make a detailed investigation of his past, but they usually possess a personnel much better adapted by experience and training to the study of offenders than that of most police departments and jails.

The present lack of uniform criminal statistics is due in large measure to the absence of any standard plan of criminal statistics. To supply this need, this manual of instructions suggests a system of criminal statistics for use by parole officers, jails and workhouses, police departments, courts, prosecutors, and probation agencies, in addition to the more detailed instructions and information for the use of prisons and reformatories. It is hoped that these suggestions may not only prove the way for an extension of the bureau's criminal statistics but may also aid those State, county, and municipal agencies which desire to compile better criminal statistics and to have their statistics fit into a standardized national scheme of criminal statistics."

Other Federal Crime Statistics

The U. S. Department of Justice in its annual report of the business transactions in the United States Courts includes an official tabulation of statistics relating to prisoners of the United States. The 1926 table states that there are twenty-six United States prisoners serving sentences for murder or manslaughter.

Glossary of Legal Terms Used in This Issue

Abbreviations used in Glossary: (B)—Ballentine's Law Dictionary; (Bouv.)—Bouvier's Law Dictionary; (C. C.)—Criminal Code; (Fed. Stat.)—Federal Statute; (Man. for Cts. Mart. U. S. A.)—Manual for Courts Martial and Courts of Inquiry, United States Army. (W. Dic.)—Webster's Dictionary; (Naval Cts. & Bds.)—Naval courts and board.

Arson—The malicious burning of the house of another.—(Bouv.)

Capital Crime—A crime punishable by death.—(B).

Capital Punishment—Infliction of the death penalty.—(B).

Code—A statutory embodiment of all the law pertaining to the subject or subjects included.—(B).

Common Law—The unwritten or non-statute law.—(B).

Criminal Intent—Intention to commit an act which is a crime.—(B).

Criminal Law—The law pertaining to crime and its punishment.—(B).

Crime—A public offense; a wrong against the public.—(B).

Federal—Appertaining to the United States.—(B).

Felony—An offense which occasions a total forfeiture of either lands or goods, or both, at common law, to which capital or other punishment may be superadded, to the degree of guilt.—(Bouv.)

Grand Jury—A body of men, the number of whom varies in different jurisdictions, chosen by lot and sworn to inquire into crimes within the jurisdiction of the county.—(B).

Habeas Corpus—A common law writ by which one restrained of liberty is brought before a court of judicial inquiry as to the lawfulness of his restraint.—(B).

Homicide—The killing of one person by another.—(B). Homicide by misadventure is an accidental killing by one engaged in a lawful act, with no intent to hurt.—(B).

Excusable homicide is that which takes place under such circumstances of accident or necessity that the party cannot strictly be said to have committed the act wilfully and intentionally, and whereby he is relieved from the penalty annexed to the commission of a felonious homicide.—(Bouv.)

Felonious homicide is that committed wilfully under such circumstances as to render it punishable.—(Bouv.)

Justifiable homicide is that committed with full intent, but under such circumstances of duty as to render the act one proper to be performed.—(Bouv.)

Homicide se defendo is a killing in self-defense.—(B).

Insurrection—Action or act of rising against civil or political authority, or the established government; open and active opposition to the execution of law in a city or State; usually implying less magnitude and success than there is in case of rebels recognized as belligerents.—(W. Dic.)

Jeopardy—Exposure to death, loss or injury; hazard; danger.—(W. Dic.) (Legal)—One is in jeopardy whenever, upon a valid indictment, in a court of competent jurisdiction, and before a legally constituted jury, his trial has been fairly entered upon.—(B).

Juror—A member of a jury.—(B).

Jury—A body of laymen selected by lot to ascertain, under the guidance of a judge, the truth in question of fact in either a civil or a criminal case.—(B).

Jury List—A list of persons eligible for jury duty.—(B).

Jury Process—Process of a court employed to summon jurors and to compel their attendance.—(B).

Jury Wheel—A contrivance by which the names of jurors to be summoned for duty are selected by lot from the jury list.—(B).

Law of the Land—The common law and the statute law existing in a State at the time of the adoption of the State Constitution.—(B).

Lex talionis—The law of retaliation: an example of which is given in the law of Moses, an eye for an eye, a tooth for a tooth, etc.—(Bouv.)

Manslaughter—The unlawful killing of a human being, without malice express or implied.—(B). (Fed. Stat.)—Manslaughter is the unlawful killing of a human being without malice. It is of two kinds: *First*—Voluntary—upon a sudden quarrel or heat of passion. *Second*—Involuntary—in the commission of an unlawful act not amounting to a felony, or in the commission of a lawful act which might produce death in an unlawful manner or without due caution or circumspection.—(U. S. C. C., Sec. 274.)

Murder—The unlawful killing of a human being with malice aforethought.—(U. S. C. C., Sec. 273.)

Murder in the First Degree—A statutory degree of murder differing in different States, usually punishable by death.—(B). (Fed. Stat.)—Every murder perpetrated by poison, lying in wait or any other kind of willful, deliberate, malicious and premeditated killing, or committed in the perpetration of or attempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a premeditated design unlawfully, and maliciously to effect the death of any human being other than him who is killed is murder in the first degree. Any other murder is murder in the second degree.—(U. S. C. C., Sec. 273.)

Murder in the Second Degree—A statutory degree of murder differing in different States, usually punishable by life imprisonment.—(B). (Fed. Stat.)—Any other (than first degree) murder is murder in the second degree.—(U. S. C. C., Sec. 273.)

Mutiny—Mutiny consists in an unlawful opposition or resistance to or defiance of superior military authority with a deliberate purpose to usurp, subvert or override the same.—(Naval Cts. & Bds., Sec. 218.) Mutiny imports collective insubordination and necessarily includes some combination of two or more persons in resisting lawful military authority. The concert of insubordination contemplated in mutiny or sedition need not be preconceived, nor is it necessary that the act of insubordination be active or violent. It may consist simply in a persistent and concerted refusal or omission to obey orders or to do duty with an insubordinate intent.—(Man. for Cts. Mart. U. S. A., Sec. 417.)

Spy—Being a Spy: The principal characteristic of this offense is a clandestine dissimulation of the true object sought, which object is an endeavor to obtain information with the intention of communicating it to the hostile party.—(Man. Cts. Mart. U. S. A. Sec. 432.)

Statute—A legislative enactment.—(B).

Treason—Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort.—(Constitution of the U. S., Art. 3, Sec. 3.)

Warrant—A written order.

Writ—Process in a civil suit; a warrant in a criminal one.—(B).

Writ of Error—A writ to review an inferior court's judgment in a higher court for errors on the face of the judgment.—(B).

Writ of Certiorari—A writ issued by a higher court to bring up (certify up) the record of a lower court or a judicial officer or body for review.—(B).

Should Capital Punishment be Retained?

Discussed Pro and Con by members of Congress, Judges, Attorneys, Wardens, Editors, Publishers, Authors, Ministers and Penologists.

Pro

HON. ROBERT G. HOUSTON

U. S. Representative, Delaware, Republican

THERE is one thing that should always be kept in mind. What we call the punishment of the guilty is not only the punishment of the guilty for the crime committed, but the very important part of that sentence is that it serves as a deterrent to others who might do likewise.

Take the case of the brutal murderer. What punishment can you mete out to a man of that kind, except that of death punishment? He would not serve life imprisonment. He would stay in jail 10 or 15 years and when the crime is forgotten, all the facts are forgotten, appeal is made to the parole board, their sympathies are appealed to and he is turned loose.

Those degrees of murder where the penalty is death are murders or crimes which are premeditated and planned deliberately and, therefore, the person who contemplates murder in the first degree must take into consideration at the same time when he deliberately plans to commit that crime the consequence of the crime.

Therefore, he must have in mind when he is planning to murder somebody that if he is caught the penalty is death. In most cases of murder that is the reason we have so many cases of circumstantial evidence, because the man deliberately planned to do it secretly and, therefore, you are forced to resort to circumstantial evidence to prove the murder, showing that he does plan it and premeditates and plans it in secret to avoid the penalty.

That is why I feel convinced that capital punishment does have an effect on the man who is premeditating murder.

The whole theory, as I understand it, of the assumption of the State to punish crime which, of course, is against the individual of the Government, is to prevent, for the protection of the Government, a repetition of crime. In other words, it is the defensive principle inherent not only in individuals but in collections of individuals, that gives the constitutional power to the State to protect itself from crime and the commission of crime that it assumes to punish; in other words, the principal thing after the murder or crime is committed, which is a thing of the past and cannot be cured, is to so punish as to prevent the repetition of similar crimes in the future.

The whole theory of the jury system is a requirement that the verdict of the jury shall be unanimous and beyond a reasonable doubt for the protection of the accused. And, in addition to that, he is safeguarded by the authority of the Executive to pardon, on sufficient proof to convince him that there has been a mistake.

Where is a distinction between the grades of crime in the effort to rehabilitate the criminal? Take, for instance, the crime of manslaughter—homicide without malice. Plenty of men are guilty of homicide without any intention; probably by mistake or accident a man may commit murder in the second degree, in hot blood, absolutely out of control and under the force of his passions. There is a chance there for reform.

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Con

HON. O. J. KVALE

U. S. Representative, Minnesota, Farmer-Labor

I HAVE a great many reasons for being opposed to capital punishment.

In the first place, it cheapens human life. And human life should be sacred. Only the One who gave life has a right to take life.

It is the certainty of punishment and not the kind of punishment that will act as a deterrent. I am in favor of justice; I am in favor of meting out justice to the criminal to protect society, not as a matter of avenging or of punishing, but as a protection to society. I believe in meting out punishment sure and swift, and it is the certainty of punishment that will act as a deterrent and not the kind of punishment.

Another thing is that dozens of innocent people have been put to death in the electric chair and on the scaffold—dozens of people; the records show. I say it would be better to have a hundred guilty people escape than to have one innocent man put to death.

Two wrongs never made a right. I cannot go along doing something which I believe to be wrong, in order to avert some other possible wrong.

Capital punishment has degenerated into the worst form of class legislation. There are very few records of a millionaire having been taken to the gallows; it is the poor man that is hanged and put in the electric chair; it has come to such a pass. I wish every criminal could have a great lawyer to fight for him.

I don't believe any sane man ever committed murder; I believe every man who commits murder is insane. I think they should all go to insane asylums or life imprisonment, and be kept there.

Taking life legally, I think, is based on precedents established three or four thousand years ago by the law of Moses. And a great many Christians—and I don't deny they are Christians, just as sincere in their views as I am in mine—who are in favor of capital punishment go to the Bible for their proof, and they cite the old Biblical injunction, "Whoso sheddeth man's blood, by man shall his blood be shed," and the law of Moses regarding capital punishment. I say that the civil law of Moses has been abolished. We are not bound by the civil code of Moses; we are under the Christian dispensation. Their is nothing in the life of Christ, there is not a syllable as recorded in the life or teachings of Jesus of Nazareth that is in favor of capital punishment; not a syllable. That is why I am for abolishing it.

I have read my New Testament through with this one purpose in mind, to find anything that might sustain me in being for capital punishment, because I want to tell you that practically all my brother ministers—and I have been a minister a long time—are in favor of capital punishment.

If it is the law to have capital punishment, of course, I say, obey the law. I want to obey all laws, but I want to repeal that law.—*Extracts, see 19, p. 250.*

Pro—continued

ROBERT E. CROWE

State's Attorney, Cook County, Illinois*

I URGE capital punishment for murder not because I believe that society wishes to take the life of a murderer, but because society does not wish to lose its own. I advocate this extreme and irrevocable penalty because the punishment is commensurate with the crime. The records, I believe, will show that the certainty of punishment is a deterrent of crime. As the law is written in most of the States of the Union, every other form of punishment is revocable at the will of an individual.

It is the finality of the death penalty which instills fear into the heart of every murderer, and it is this fear of punishment which protects society. Murderers are not punished for revenge. The man with the life-blood of another upon his hands is a menace to the life of every citizen. He should be removed from society for the sake of society. In his removal, society is sufficiently protected, but only provided it is a permanent removal. I should like to see the experiment of the inexorable infliction of the death penalty upon all deliberate murderers tried out in every State of the Union for a sufficient period of time to demonstrate whether or not it is the most effective and most certain means of checking the appalling slaughter of innocent, peaceful and law-abiding citizens which has gone on without check for so many years, and which is increasing at a rate which has won for the United States of America the disgrace of being known as "the most lawless nation claiming place among the civilized nations of the world."

The attitude which society must take toward offenders—great as well as small—must not be confused with the attitude which the individual quite properly may assume. Neither may officers of the law nor leaders of public thought, if they are mindful of the duty which they owe to society, advocate a substitution of any other penalty for murder than that penalty which will give to society the greatest degree of protection.

No judge or no jury has the right to forgive those who trespass against the law of the State. It is their duty as temporary spokesmen for the unit of society they represent to deal with them as the law prescribes.

In cases where—in a properly constituted court over whose deliberations a properly elected or appointed judge has presided, and in which, after hours and days and sometimes weeks of patient and deliberate inquiry, a jury of twelve men selected in the manner which the law provides—a man charged with murder has been found guilty and sentenced to death, it is an unpardonable abuse of the great power of executive clemency to nullify the verdict by commuting the sentence to life imprisonment. It is in effect a usurpation by the executive authority of the state of powers and duties deliberately and expressly assigned by the representatives of the people in the constitution to the judicial branch alone.

I do not believe that the American Bar is ready to plead guilty to the charge which this action infers that lawyers for the prosecution and lawyers for the defense are so venal, corrupt and bloodthirsty through ulterior motives as to deliberately conspire with an unrighteous judge, an unprincipled or irresponsible jury and witnesses prompted solely by the spirit of revenge to doom to death any man on a charge of murder unless the testimony truly shows him guilty beyond all reasonable doubt.

Active participation in the trial of a murder case is not a

* Includes Chicago.

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Con—continued

THOMAS MOTT OSBORNE

Former Warden, Sing Sing Prison, New York

THERE is only one argument in favor of capital punishment—that it instills fear into the hearts of would-be murderers and thus prevents crime.

A moment's reflection will show that this argument is purely hypothetical; it is impossible to determine how many men are restrained by fear from committing murder. It used to be considered desirable, in order to instill the proper amount of fear, to have public executions, until intelligent people woke up to the fact that public executions actually encouraged crime. So now we hang or electrocute men in secret.

In other words, when public executions were found to be harmful a wrong remedy was applied; they abolished publicity instead of abolishing executions—very much the same as if an invalid should find that taking a certain drug which came in a red box was harmful, but should continue to take the same drug provided it came in a blue box. It is the drug that is harmful, not the color of the box; it is the execution that is harmful, not the degree of publicity.

There is an old proverb: "The blood of the martyrs is the seed of the church." All attempts to stifle religious propaganda by persecution end in spreading the religion. It is also true of crime; brutal punishments increase it. "Punishment or torture never halted virtue; it can never conquer vice."

No one would claim that murder would cease if capital punishment were abolished; the point is that severe punishment may often, instead of diminishing crime, increase it.

In referring to Professor Kirchwey's article on the Death Penalty, in the Bulletin of the National Society of Penal Information for November, 1923, we find the following significant facts:

"The electrocution of the notorious Kemmler at Auburn Prison, New York, some years ago was followed by twenty-four murders in New York, ten in New Jersey and ten in Pittsburgh, all within the space of thirty days. * * * On June 21, 1877, ten men were hanged in Pennsylvania for murderous conspiracy. The 'New York Herald' predicted the wholesome effect of this terrible lesson. 'We may be certain,' it said, 'that the pitiless severity of the law will deter the most wicked from anything like the imitation of these crimes.' And yet the night after this large-scale execution two of the witnesses at the trial of these men had been murdered, and within two weeks five of the prosecutors had met the same fate."

It may be urged that capital punishment is justified on the theory of retaliation—that if a man takes a life, then his life should be taken in exchange.

This is the old, so-called *lex talionis*, against which the Founder of Christianity expressly enjoined His followers. In the Sermon on the Mount we find this: "Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth; but I say unto you, That ye resist not evil." This does not mean that we should not oppose force, if necessary, to the criminal; but it does mean that we should not attempt to balance one evil by another evil; one killing by another killing; one debit by another debit. The only way to balance a debit is by a credit. Resist not evil, but overcome evil by good. There are, on the other hand, a number of strong arguments against capital punishment.

It is wrong. As I have already shown, it is expressly forbidden in the New Testament; it is also forbidden in the Old Testament. The Commandment, "Thou shalt not

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ROBERT E. CROWE—continued

pleasant duty. It is one of the greatest sacrifices which society has a right to demand of any citizen. But it is a sacrifice which no truly patriotic citizen conscious of his duty to society can avoid merely because he finds it distasteful or abhorrent. Every judge who has presided over a murder trial will tell you so. Every citizen who in the performance of the duty he owes to society has sat upon the jury in a murder case is fully aware of it. It is even more unpleasant for a citizen through accident of circumstances to be compelled to give testimony which he realizes may send another human being to his doom. And greater than these is the weight of responsibility put upon the attorneys charged with the prosecution of the case. But because of the unpleasantness and distastefulness of the thing, it can no more be avoided by the citizen who measures up to the full standard of American ideals of individual responsibility to society than can any other duty which society demands of him be avoided.

It is because of my faith and trust in the integrity of our American citizens that I believe that there is no considerable danger that the innocent man will be convicted and that society may be charged that in a blind zeal to protect itself against murder it actually commits murder by the infliction of the death penalty.

The man who kills is society's greatest enemy. He has set up his own law. He is an anarchist—the foe of all civilized government. If anarchy is not to be met with anarchy, it must be met by the laws, and these laws must be enforced.

In the year 1920 when Judge Kavanagh, Judge Brentano, Judge Barrett and Judge Scanlan came to our criminal court in Cook County, from the fifth day of May until the first day of July, and tried nothing but murder cases, there was an almost immediate decrease in murder in Chicago.

In addition to the many men that they sent to the penitentiary for manslaughter or a term of years for murder, in their brief time of less than sixty days, fifteen men were sentenced to death in the criminal court of Cook County. The records of the police department and the records of the Chicago Crime Commission show that as a result murder fell fifty-one per cent in Cook County during the year 1920.

We also had a reign of terror in our city, which for years was in the grip of criminals who dominated labor unions. They were above and beyond the law. They laughed at it. They spat in its face, just as does the murderer who has no vision of the gallows or the death chair before him. Forty-nine of these labor crooks were convicted in the courts of Cook County. The building industry that had been strangled for years began to revive and take on life, and we have not heard anything more of this sort of criminality. Does this not convince you that punishment actually deters crime? Does it not justify my suggestion that actual infliction of capital punishment be used as a check upon murder in the United States?

We hear much about England. There murder is murder. Justice is swift and sure. There are fewer murders in the entire Kingdom of Great Britain yearly than there are in the city of Chicago.

Opponents of capital punishment forget that murder is inexorable and that the victim never returns. They forget that society is protected best by punishment which is proportionate to the crime. They are moved to abolish hanging because it is an unwholesome spectacle. They overlook the unwholesome and harrowing aspects of a murder scene.

Many of our present-day murderers are professional crim-

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Con—continued

THOMAS MOTT OSBORNE—continued

kill," is subject to no qualification. It does not add: "Unless the authorities of the State decide otherwise." There is no warrant in religion for the State to kill any more than for an individual to kill. "Vengeance is mine; I will repay, saith the Lord."

It is brutalizing. If the State kills men in cold blood, it sets a bad example to all the weak and wicked in the State. A man would say: "The State kills; why should not I?" Sometimes a man has better means of knowing whether a criminal is guilty than the State; is he then justified in taking the law into his hands? Many feel so.

The effect of the State's killing men is to create a disregard for human life; this tends to increase crime.

It fails to instill fear. It is a fact that a large percentage of murders are committed in the heat of passion, when the murderer is not in a position to reason; fear of the law plays no part at all. In the remaining few, whatever fear there may be is more than balanced by the belief on the part of the criminal that he is not going to get caught. There are also some who deliberately kill; but the knowledge that they will be caught and punished does not deter them. The remark will be made: "I'm satisfied; I got even; I don't care whether they burn me or not."

How many men would commit crime if they were not afraid of the death penalty no one knows or can know. I have had a rather extensive acquaintance with criminals, and I do not believe that there are any. If men were afraid of capital punishment, they would be equally afraid of a long term of imprisonment. It does not deter the present criminals; and there is nothing to show that a change in the law would increase murders. It is only a theory at the best.

On the contrary, various States of the Union have abolished capital punishment, without an increase in the number of murders. In Maine, where they abolished the death penalty, then restored it, and then abolished it again, there was no increase of murder when there was no death penalty.

It is unjust. In all schemes of punishment the first thing is to have it equitable; if it is unjust, it defeats its own object. Now it is a fact that by far the greatest number of murderers escape the death penalty; it is estimated that less than one and one-half per cent are actually executed. Some are never discovered; some are never brought to trial; some escape conviction through lack of evidence; some escape through the specious pleas of clever lawyers; some have their sentences commuted. By the time it comes to execution, it is only a very small percentage that get the punishment. This, of course, embitters the friends of those who are killed, and they often determine upon a murderous revenge.

It glorifies crime. Rabbi Goldstein, Jewish Chaplain of Sing Sing, once wrote the following:

"The night the gunmen died at Sing Sing, the youngsters of the East Side turned out and came to Sing Sing until it became necessary for the warden to place armed keepers on guard outside the prison walls. They were there for the purpose of being able to say afterwards for their own glorification that they stood beyond the walls when their heroes were put to death. It is a common experience that you find no cowards either in the halter of the gallows or in the electric chair. No case has ever come under my observation where a victim of the death penalty has not met his doom with fortitude. This makes heroes of them. It makes the men who die in expiation of their crimes against humanity akin to the heroes and martyrs who die for humanity."

When we send a man to death, we invite misplaced sym-

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Pro—continued

ROBERT E. CROWE—continued

inals whose victims were slain in the course of hold-ups, robberies and other crimes committed for profit, and the victim was killed deliberately on the theory that dead men can make no identifications. Society for its own protection should make it impossible for these men to kill again.

Murder like all other crime is a crime against society. It is for assault upon society that the State inflicts punishment. Too many confuse the relation of the victim of a crime with that of the interest of the State in the prosecution of criminals. The State is impersonal. It is the voice of all of the people expressed by a voting majority. What happens or has happened to any individual is not of great importance. The civil courts exist for the adjudication of the individual and personal wrong. The criminal court exists to punish those who have offended against the State. He who violates the criminal code offends against and injures us all. When he injures to the extent of unlawfully taking human life, he has committed a grave and irreparable injury.

Punishment of the slayer will not bring back life to the victim. But punishment for crime is not inflicted upon any theory of relationship to the victim except to consider the fact that the victim was a part of society and that in wronging the individual that society itself has been assaulted.

I am not ready to agree to the theory that all or most murderers are not responsible for their acts. I believe that man is entitled to free will and that except in rare instance he is both morally and legally responsible for all his acts. I cannot accept the theory that murderers should not be punished for their crime because they are irresponsible. If they are so irresponsible as to constitute a danger to society, I do not believe that society can carefully preserve in existence the danger they represent. I believe that society is justified in destroying even the irresponsible murderer if he is known to imperil the life of other persons. There should be no sentiment about it. Persons whose existence means death and disaster to others who have done no wrong, have no claim upon society for anything—not even for life itself.

Few men who murder have previously lived blameless lives. The act of murder is the climax—a cumulative effect of countless previous thoughts and acts. The man's conduct depends upon his philosophy of life. Those who want to grow up to be respectable and useful citizens in the community have a correct philosophy. Those who want to excel in crime, those who tear down instead of building up, deliberately choose to adopt the wrong philosophy of life and to make their conduct correspond with it.

Society and particularly the State would not be much concerned with individual codes of conduct if, at the present time, they were not adopted by the youths of the land and were not creating an army of virtual anarchists who look upon the criminal code, including that part of it forbidding murder, as a mere convention of society which "advanced thinking" and crazy social theories permit them to set aside as a matter of no consequence.

This kind of wrong thinking is more extensive among the youth of the United States today than most people realize. It is leading in the direction which induces people to believe that each is a law unto himself; that each may choose the laws which he will obey, and that he may violate the rest. It is one of the causes of murder and it is the cause of the kind of murder for which capital punishment is the only cure.

Because some of the youth of our population are saturated with these ideas, we are asked to accept fantastic notions, abnormal actions, and even defiance, disregard and violation

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THOMAS MOTT OSBORNE—continued

pathy for a criminal—we make a hero of a murderer. This has a specially bad effect upon the young.

It is futile. From the foregoing it is seen that in my opinion the death penalty is futile, as it does not succeed in its purpose. The only thing it does is to remove the possibility of the murderer committing another crime; but if this is desirable, why not kill all criminals, when we catch them?

Innocent men are killed. If there was no other reason for doing away with the death penalty, the number of mistakes that are made would be reason enough? Of the thirty-nine men who were executed during the two years I was Warden at Sing Sing, the Warden's office was certain that four men were innocent. Even making allowances for our being mistaken, there is still too much chance.

There was another case where a man came three times within twenty-four hours of execution, but was reprieved. Finally it was discovered that he was entirely innocent; the guilty man confessed, and the Governor pardoned the innocent man. Had it not been for the indefatigable efforts of my assistant, Mr. Spencer Miller, Jr., who became interested quite by chance, the man would have been killed by the State.

If you want another case—a very sympathetic one—you will find it described in "Through the Shadows with O. Henry," by Al Jennings.

Not long ago a life prisoner in Pennsylvania, after being in prison twenty years, was pardoned as he was found to be innocent. Many innocent men are executed; but we don't learn about their cases because there is not enough incentive to agitate the case after the man is dead.

The real case against capital punishment was once put to me in this way: On the night before his execution a young man of twenty said to me: "I am not afraid to die; we all of us have to die some time; and what difference does it make to me whether I go now, or five years from now, or ten years from now? But there are two reasons why I am sorry to go now. One is on my mother's account. . . . The other is this—I should have liked the chance to do enough good in the world to balance the harm I've done."

He had the right idea. The only way to balance a debit is by a credit. Resist not evil, but overcome evil with good. Balance wrong by right. Give the man a chance to redeem himself after his sin by doing good to make things balance. That can be done, even in prison.—*Extracts, see I, p. 250.*

CLARENCE DARROW

Criminal Lawyer

CAPITAL punishment is too horrible a thing for a State to undertake. I should hate to live in a State that I did not think was better than a murderer. The people of the State kill a man because he killed some one else—without the slightest logic, without the slightest application to life—simply from anger.

The greater the sanctity that the State pays to life, the greater the feeling of sanctity the individual has for life.

In any new country homicide is more frequent than in an old country, because there is a higher degree of equality. In the older countries, as a general rule, there are fewer homicides because nobody ever thinks of getting out of his class.

You may read any history or any philosophy and they each and every one point out that after every great war in the world, wherever it was, crimes of violence increased. A great war always increases death rates.

We teach people to kill, and the State is the one that

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ROBERT E. CROWE—continued

of the law, as the reason for turning them loose when charged with murder. We are compelled to listen to the weirdest, wildest and most fantastic theories expounded by expert witnesses to show why capital punishment should not be inflicted.

If the United States of America has the power to take boys of eighteen years of age and send them to their death in the front line trenches in countries overseas in defense of our laws, I believe that the State has an equal right to take the lives of murderers of like age for violating the mandate of God and man, "Thou shalt not kill."

I base my belief that capital punishment is a deterrent of crime upon the fact that where capital punishment has been inflicted for even a comparatively small period and in a relatively small number of cases, there subsequently has been an immediate decrease in murder. Those who argue against capital punishment should bear in mind that where capital punishment has actually been inflicted, this has been the result.—*Extracts see 1, p. 250.*

JUDGE ALFRED J. TALLEY

New York Court of General Sessions

OUT of my own experience, as a lawyer for defendant, as a prosecutor for the State and as Judge of the greatest criminal court in all the world, I say that the only thing that the criminal fears is the penalty of death that will follow his crime.

Who can say with that criminal tendency upon the part of the American people, that stigmatizes us as to the most lawless nation on the face of the earth—who can say that, with murder in the heart of so many of our people, the number would not be twice as great or three times as great if death, which is still the king of terrors (more to the criminal than to the righteous), were not maintained as the penalty for an unlawful killing?

Bear in mind that in this State the only kind of homicide that is punishable by death is what we designate as murder in the first degree. That is the killing of a human being, which is neither excusable nor justifiable, and which follows deliberation and premeditation upon the part of the killer.

Twelve men, selected because of their lack of interest in the result, save such as they may have as citizens of the community, shall be drawn from the highways and byways to constitute a jury. A judge shall preside to see that all the rights given by law to the defendant will be observed. When these fellow-citizens declare that the defendant was the one who accomplished the slaying and that it was not accomplished without deliberation and premeditation and that he had neither the right nor justification nor excuse to kill, the law says that is murder and for that murder the forfeit is life, because it has been taken from another.

Has the State the right to impose capital punishment for first-degree murder? If, I, as an individual, have the right to kill in self-defense, why has not the State, which is nothing more than an aggregation of individuals, the same right to defend itself against unjust aggression and unjust attack?

Does anyone dispute the right of a nation to kill in the protection of its citizens? Why should the right of any State be questioned when it seeks to protect its citizens and their lives and property against unjust aggression?

Because, in the progress of civilization, the individual has delegated many of his privileges and powers to that which we call the State, we do not in these days leave private vengeance to the individual. We say we are citizens of no

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CLARENCE DARROW—continued

teaches them. If a State wishes that its citizens respect human life, then that State should stop killing. It can be done in no other way, and it will perhaps not be fully done that way. There are infinite reasons for killing. There are infinite circumstances under which there are more or less deaths. It never did depend and never can depend upon the severity of the punishment.

Do you think this war did not brutalize the hearts of millions of people in this world? And are you going to cure it by brutalizing it still more by capital punishment?

If capital punishment would cure these dire evils, why should there be any more killing? We have had it always.

Our capital punishment isn't worth talking about, so far as it is being a preventive is concerned. Why not call back from the barbarous past the hundred and sixty or seventy-odd crimes that were punishable by death in England?

"Everybody who kills, dreads hanging." That has nothing to do with it. What was the state of mind when the homicide was committed? The state of mind is one thing when a homicide is committed and another thing weeks or months afterward, when every reason for committing it is gone. There is no comparison to it.

How long does it take the angry man for his passions to cool when he is in the presence of the thing that angers him? There never was a premeditated murder in any sense of psychology or of science. There are planned murders, but back of every murder and back of every human act are sufficient causes that move the human machine beyond its control.

As a rule, it is the poor and the weak and the friendless who furnish the victims of the law. Since the world began, a procession of the weak and the poor and the helpless has been going to our jails and our prisons and to their deaths. They have been judged as if they were strong and rich and intelligent.

Is there anybody who knows what justice is? No one on earth can measure out justice. Can you look at any man and say what he deserves—whether he deserves hanging or life in prison or thirty days in prison or a medal? Justice is something that man knows little about. He may know something about charity and understanding and mercy, and he should cling to these as far as he can.—*Extracts, see 4, p. 250.*

LOUIS E. LAWES

Warden, Sing Sing Prison, New York

THE most horrible crime that can be committed is the killing of a human being, and, likewise, the most horrible punishment that can be imposed is the killing of a human being; the first, the community could not prevent; the second is accomplished with premeditation and deliberation.

Why is there so much interest in capital punishment at present? Three things that will always arouse interest in this subject are: execution of an innocent man; the commission of an unusually atrocious murder, and the threat to the safety of life in general by sudden social disorder or crimes of violence. The cause at present is the alarming increase of murder in America.

I found that the fundamental theory of punishment is that it is used for deterrence, for retribution and for reformation, and, in the case of capital punishment, there is a further basis urged for its retention—the need of eliminating

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JUDGE ALFRED J. TALLEY—continued

mean State or of a great Republic, and that State or that Republic will protect our rights. We leave the sanction of the violated law to the State rather than take vengeance in our own hands as individuals.

Crime and lawlessness in the United States have been steadily on the increase and out of all proportion to our growth, and there has been a steady and growing disrespect for law. In our opinion, it is not a result of the war. We do not find the proportional increase in crime in 1916 to 1922 greater than from 1910 to 1916. And we have not been able to discover that crimes of violence have materially increased in France, in England or in Canada during or since the war, although the effects of the war naturally must have been more marked in those countries.

Those who would seek to take away from the State the power to impose capital punishment seek to despoil the symbol of justice. For if justice has not the right to enforce her edicts and her mandates, then her laws may be lost upon a senseless people.

I am in favor of abolishing capital punishment when the murderers of the country abolish its necessity.—*Extracts, see 4, p. 250.*

EDWARD C. STANTON

Prosecuting Attorney, Cuyahoga County, Ohio*

YEARS of experience in dealing with all kinds of criminals and with all phases of crime have developed a firm conviction that the death penalty must be retained as the punishment for premeditated murder.

It is unfortunately true that a large part of what has been said and written on capital punishment has been the utterances of theorists and sentimentalists, people undoubtedly of high ideals and good intentions, but nevertheless people who are not qualified to write anything of value on crime, criminals, prisons, prisoners, prison reform, punishment, or reformation.

Such statements are nevertheless far more harmful in their effect upon society than merely to be misleading. They actually foster and encourage crime by creating a maudlin and mawkish public sentiment that causes many juries to refuse to convict even the most brutal and cold-blooded murderer of whose guilt there is not the slightest question of doubt.

This condition may be well illustrated by two recent trials in this country. Both were cases of deliberate premeditated murder where the guiltiness of the murderers was established beyond any question of doubt. In both cases a faithful police officer was shot while engaged in the performance of his duties. In each case the murder was committed by a hardened criminal whose motive was to make his escape after having been arrested on a minor charge. In both cases the recommendation of mercy was a plain miscarriage of justice by a weak-kneed and spineless jury, the natural product of a hundred years of emotional and sentimental propaganda.

This abuse has gone on until today only about one out of every one hundred murderers in this country actually suffers the death penalty. The failure of juries to execute murderers is the chief cause of murder in America. It is the belief that they will not have to suffer the death penalty that emboldens murderers to commit their most horrible crimes.

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LOUIS E. LAWES—continued

those who menace the life and security of society.

Reformation, obviously, cannot be attributed to the use of the death penalty.

The argument that capital punishment is necessary as a process of elimination is faulty; it is unscientific in its application.

The idea of punishment of any type solely as retribution is gradually disappearing. History condemns capital punishment. It must not be forgotten that the death penalty has been tried before on a colossal scale, judged, and found wanting.

There is no room for sentimentality in dealing with the subject of capital punishment, but death fades into insignificance when compared with life imprisonment. To spend each night in jail, day after day, year after year, gazing at the bars and longing for freedom, is indeed expiation.

Executions, like war, brutalize men; the more that take place, the greater the number there is to execute. The man about to die becomes a hero.

The executed man passes quickly from the mind, while the criminal in life imprisonment remains as a living symbol of the awful consequences of an awful act.

The United States is a nation that leads the world in scientific progress, that boasts achievement in the adjustment of industrial relations, in dealing with complex social and welfare problems, yet hangs its head in shame at 10,000 homicidal deaths each year. In the face of this, why do we cling blindly to capital punishment? In spite of many signs which point to its positive failure as a deterrent, why do we retain our faith in its efficacy? Why do we believe that a punishment applied to one of every eight homicidal crimes will deter others?

It is an actual fact that where the murders are numbered by the thousands, those who go to the chair or the scaffold are numbered by the tens. Even in England, statistics show that less than five per cent of homicidal crimes results in imposition of the death penalty. People say that capital punishment might deter if it were enforced. The point is that until the characteristics of mankind change, it can never be enforced. The reasons for this are human elements that cannot be overcome or eradicated.

That is why, as a punishment, the death penalty will always remain a failure. The causes of crime are economic and sociological, with roots far deeper than mere punishment can hope to affect. We find that whatever deterrence there is in punishment lies in its certainty, not in its severity. If the solution is severity, we are illogical if we stop short of its limits.

I am not asking that we abandon a scheme of punishment that is in successful operation. We have capital punishment and have had it for generations, yet we have a high homicide rate in shameful contrast to the rest of the civilized world. We are just as far today from a successful solution of the homicide problem as we have ever been.

If capital punishment is a success, if it is a deterrent, why was it that when England had 240 capital offenses, and, later, in Blackstone's time, 160, crime was far more prevalent than it is today?

In England, as late as 1820, the following acts were punishable by death: Gypsies remaining in the kingdom one month; unlawfully killing, hunting or stealing deer; unlawfully stealing fish out of any pond; injuring of Westminster Bridge or any bridge; cutting down or destroying growing trees; sending threatening letters.

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EDWARD C. STANTON—continued

The United States now has more murder, in proportion to its population, than any other civilized country in the world. Complete and exact official statistics of murder for the whole country are not compiled and published by the Federal Government. But from various unofficial sources we learn that in the last fifty years about three hundred thousand people have been murdered in the United States, that at the present time between nine and ten thousand people are murdered each year, and that in these fifty years the rate of murder had increased from less than two and a half to about nine for each hundred thousand of population, while the rate of executions has decreased from one for each twelve or fifteen murders to one for each eighty or ninety murders.

Three hundred thousand people murdered in this country in half a century! That is six times as many as those of our soldiers who died on the field of battle during the World War. It is about three times as great as the total number of men we lost in the World War, including those killed on the field of battle, those who died of wounds, those who were reported as missing, and those who died of disease. It is more than the total number of American soldiers who have died on the field of battle in all the wars this country has fought in the century and a half of our national life. It is more than the total population of Akron, Ohio; Providence, R. I.; St. Paul, Minn.; Denver, Col., or Portland, Ore.

Not only must propaganda against the death penalty be criticised because it fails to show any compassion for the innocent victims of the merciless criminals, while it lavishes its maudlin sympathy on the cold-blooded murderers, thus actually encouraging more murder, but it must also be rebuked because it does not always adhere to the truth. For illustration, an article published in one of the high-grade magazines and written by one of the ablest and fairest of the propagandists, says that capital punishment was abolished in Ohio in 1908 by act of the State legislature. This statement is not true. No such action was taken by the legislature of this State in 1908 and since that time both the legislature and the people of Ohio have spoken in no uncertain words on the subject of the death penalty as the punishment for murder.

In addition to many statements that are plainly untrue, this propaganda abounds in erroneous statements that are based on false assumptions or unwarranted deductions. I doubt if any person can have first-hand knowledge of what he is talking about and say that murderers do not fear the death penalty. All of my experience in dealing with murderers tells me that they do fear the death penalty, that it is the only punishment which they do fear, and that while it does not prevent all murder, yet it certainly does deter many from this crime. If only about one murderer in a hundred is executed, as is true in several of our States, then no person of any intelligence at all would expect the full effect of the deterrent power of the death penalty to be felt. Every murderer that I have ever seen brought to the bar of justice has sought life imprisonment instead of the death penalty, and if successful in obtaining it, he has looked upon the result as "getting off." I have known of a case of a young highway robber or holdup man who used a glass revolver, and who said he did so because he did not want to run the risk of the electric chair.

And what is it that the sentimental theorists propose to substitute for the death penalty? Life imprisonment! There

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LOUIS E. LAWES—continued

Most of the American colonies made twelve offenses capital. Connecticut made blasphemy a capital offense; also for a child over sixteen who would curse or smite its parent.

In Massachusetts, twenty witches were executed in the short space of eight months. When they quit killing witches, witches ceased to exist. It has been said that witches really did not exist, but that the murderer is a real menace. The point is that the community thought it necessary to exterminate both.

In England, in 1830, a petition was signed and presented to Parliament by 1000 bankers from 214 towns, stating that they found, by experience, that infliction of death or even the possibility of death prevents the prosecution, conviction and punishment of the criminal and thus endangers the property it is intended to protect, and, therefore, requested that forgery be removed from capital cases.

Why did pickpockets, for whom detection meant death, ply their trade at public hangings in the very sight of the gallows?

Why do States which have the most legal executions also have the greatest number of homicides in proportion to population?

Why do those States where lynchings are most frequent also have the greatest number of murders?

If the fear of death is a deterrent, why is it that a man will commit murder even in prison, where the chances of escaping detection are one in a thousand?

What explanation is there of the fact that several counties in New York State had no murder convictions for a number of years, some of them for long periods, yet when the first conviction for murder occurred, with the subsequent execution of the murderer at Sing Sing, it was immediately followed by a number of murders?

I ask that others will bring to this problem an open and unbiased mind, will ask themselves these questions and answer them without prejudice. I find that those who have given real study to the subject usually favor the abolition of the death penalty.

To have been retained so long in our system of penology, capital punishment must have or appear to have some justification; let us see whether it is really necessary, whether it has ever had any measure of success in dealing with capital crime.

In the first place, is death necessary in order to balance the debt of the individual to society for the wrong that has been done? This conception of punishment is based on the old belief of retaliation—on the Mosaic Law of "An Eye for an Eye." If we are to follow this old Mosaic Law, why not, with equal logic, follow the Biblical injunction, "Thou shalt not Kill"? This theory of retaliation is not used in fixing punishment for other crimes. The State should not stoop to the ethics of the common murderer. The balancing of that debt is a matter between the man and his Creator.

The light of modern penology is beginning to demonstrate that capital punishment is not a solution, but an avoidance of the real problem; that many crimes, even capital crimes, are the results of maladjustment of the person and not of any evil that is inborn and which cannot be cured, but must perish with the individual.

Let us consider for a moment the types of individuals who commit these ten thousand capital crimes each year. Many murders occur under the stress of violent emotions, others are the result of a sudden flash of anger. Where is

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EDWARD C. STANTON—continued

is no such thing in America. Every murderer sent to a penitentiary under sentence of "life imprisonment at hard labor" hopes either for an early pardon or a chance to escape, and most of them are not disappointed in these hopes. The pardon power is a much abused prerogative.

Another argument against the death penalty often repeated in the propaganda of the theorists is that it gives the murderer no chance to reform. These theorists fool themselves when they imagine that all hardened criminals can be reformed even after they have committed the worst of all crimes, just as they fool themselves when they imagine that our penitentiaries and reformatories are filled with "noble men" and with "promising boys." Noble men and promising boys had a wonderful opportunity during the World War to prove their nobility on the field of battle, as George Washington and Theodore Roosevelt did, but the Federal Government positively refused to accept any convict for military service. If these sentimental writers wished to be at all consistent, they would demand the abolition of all prisons because so large a part of the criminals are not reformed.

We often find some theorists referring to the death penalty as a relic of barbarism, or alluding to the advocates of capital punishment as the champions of a dying cause. Here again facts have given way to imagination. Most of the world still retains the death penalty as the punishment for premeditated murder, and the few foreign countries that have abolished it have a real life imprisonment as a substitute. In Italy, for example, the first seven years of life imprisonment is in solitary confinement. In this country forty of our forty-eight States retain the death penalty, and two others have it for a life convict who commits murder. Fourteen States have, at one time or another, abolished the death penalty, and one other State abolished it except for a life convict who committed murder. Seven of these fourteen States have restored the death penalty, and one has restored it for a life convict who commits murder, leaving only six of the fourteen in which the death penalty is now completely abolished. Eighty-three per cent of our States still champion "the lost cause," while 87 per cent still preserve at least some traces of this "relic of barbarism." Oregon restored capital punishment after trying its abolition for seven years. Iowa and Washington returned to it after six years of experiment with its abolition. Colorado restored it after four years. Missouri, Arizona and Vermont re-established it after two years. After thirty years' trial of complete abolition of the death penalty, Rhode Island restored it for a life convict who should commit murder, thus admitting its deterrent power.

A favorite argument of the sentimentalists is that innocent people are sometimes convicted and executed. When they elaborate this point it is usually by an enumeration of cases in which they claim that an innocent person was executed, most of which happened years ago, and by a studied effort to scare people into opposing the death penalty by creating the fear that they themselves may become the victims of such a mistake. The claim of innocence is generally founded upon the death-bed confession of some person who then says that he himself committed the murder. Such statements are almost invariably made years after the execution, so that it is difficult to disprove them. There is little reason to believe that death-bed confessions are more truthful than any other statements made by the same persons. Most murderers protest their innocence with their last breath, even in

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LOUIS E. LAWES—continued

the man that has not at some moment in his life had the overwhelming impulse to kill?

Still other murders are committed because of trifling causes, a desire for revenge or because of some fancied grievance. Of those who commit these crimes not a few are medically, if not legally, insane. Not a few murderers of the abnormal category have a mentality as low as a six-year-old child. A very few are the "born-killer" type who murder coldly, deliberately, remorselessly. What few there are present the same problem as the dangerous insane and must be controlled in the same manner. We do not advocate killing the insane because they are dangerous or difficult to handle.

In the second place, is the death of the murderer necessary as a measure of public safety? Must we admit that we kill because we can devise no better way, that it is the easiest solution of the dilemma? Contrary to public belief, life imprisonment is not an uncertain punishment. Nor does life imprisonment present a real difficulty in the control of the murderer. If it did, we would expect to see it reflected in the homicide rates in those States and countries where the death penalty is abolished, in the eight States of the United States and in Holland, Roumania, Italy, Portugal, Belgium and half of Switzerland. We should expect them to have higher rates, whereas, in fact, they have lower rates.

The murderer is not a criminal in his nature as we ordinarily understand the term. During twenty years, I have known many men who have been commuted from death, and invariably they have been quiet, dependable and trustworthy. I have placed them in posts of responsibility, and they have measured up to the trust. Have you ever heard of a murderer committed by a released murderer? When we examine the record of men convicted of murder, we become impressed by the preponderance of those who are "one crime men." Nearly three out of four who come into the Sing Sing death house have committed the crime as a first offense. The record of one hundred and eighty men convicted of various degrees of homicide and paroled from Sing Sing during five years discloses only three brought back for violation of parole. Those who are commuted from the death house, in prison, are the leaders of their fellow inmates, men who often exercise great influence for good. Where would society have profited if it had killed these men? It might have satisfied a momentary craving for revenge, but that is all.

Finally, is it necessary as an example to others to kill the murderer? If it is, why surround the act with so much secrecy? It is surely not a deterrent example to perform an act furtively. If the State really believes that execution is necessary to deter others, it should execute openly and unashamed. Does not this furtiveness carry the suggestive thought that the spectacle of legalized killing by the State brings a hardened outlook toward murder on the part of the unthinking masses, which is far more harmful than any counter-balancing influence as a deterrent?

It is also very true that the thought of the penalty is rarely in the mind of the person who commits murder. Few crimes of murder are of sufficient premeditation to permit any regard to the consequences to be in the mind of the perpetrator. The thought of death is far from a powerful deterrent. Its very remote threat is of little weight in comparison to the temptation of some desperate exigency or with the passion aroused by some overwhelming impulse.

How is it possible to suppose that any penalty which is inflicted so spasmodically can be a deterrent? Statistics

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cases where there can be no possible doubt of their guilt. There is still the question as to whether we should believe the words of one who kept his peace and let an innocent person be executed. If his dying words are true, then his whole life must have been a lie. Why should we believe one more than the other? Probably in not more than one in a hundred of the cases named is it true that an innocent person was convicted.

Another argument that is pure theory is that no one is a free moral agent; that is, no person is free to choose between right and wrong, but that our conduct is determined for us by our heredity and our environment; that, therefore, men are not responsible for their criminal conduct, and hence all punishment of men by the State is unjustifiable and wrong; that all punishment should be abolished and the State should seek by improving the environment, by education or by treatment in a hospital to cure the criminal's tendencies to disturb the public peace; and that reformation by kindness should be the aim of all criminal laws and criminal institutions.

No cyclone or earthquake ever more completely shattered a building than does this doctrine level to the ground our whole temple of justice, built up through more than a hundred generations and based on the experience and study of the world's greatest lawyers, jurists, sociologists, and criminologists. More than that, it would destroy the precepts and teachings of the Bible, for why should we teach "Thou shalt not kill," or "Thou shalt not steal," or "Love thy neighbor as thyself," if no man has the slightest iota of freedom of choice allowed to him in his daily conduct, or if there are no things a man "can do or not do"?

Just let this new theory, the most foolish theory of them all, once be enacted into law and the period of wholesale robbery that will follow in every village and in every neighborhood of our larger cities will make the plundering done by the worst gang of mediaeval banditti that ever fell upon a party of travelers look like a pink tea. Thousands of the younger men will find robbery so much more profitable than work that they would leave the monotony of steady toil for the adventure of a robber's life, knowing that they would never be punished for what they did. There can be no question at all about the result. This theory, written into our law, would destroy our civilization.

This whole theory is anarchy and atheism combined. To young people I cannot fail to say, don't let this theoretical nonsense poison your mind and blight your prospects in this world. You have all been taught to love your country and reverence its institutions. You are now old enough to know for yourselves that life in this country is better and pleasanter and happier than in any other country in this world. You have all been taught to do right, to obey the established laws of society and you all expect that flagrant violations of these laws will bring punishment upon you. Don't let your lives be marred by embracing the theory that you are not the captain of your soul, that you are not responsible for your own acts, or that society will ever reach the point where it will not hold you to account for your actions.

The death penalty is the most fitting punishment and the only adequate punishment for premeditated murder. It is the only effective deterrent. The frightful toll of murder in this country will be decreased only when mawkish sympathy yields to common sense and all murderers are promptly executed.

Organized society must assert its right of self-defense. Not in the abolition, but in the enforcement of the death penalty for premeditated murder lies the only solution of our problem.—*Extracts, see 3, p. 250.*

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LOUIS E. LAWES—continued

show that everywhere it is a punishment that is conspicuous by the infrequency of its application. In twelve of our States, from 1912 to 1919, there were 20,000 homicides, with 336 executions. In New York State, from 1912 to 1921, there were 4500 homicides, with 117 executions. Abroad, the same uncertainty prevails. In England and Wales, in the same period, there were 2500 homicides, with 125 executions. And in France, in four years, nearly 6000 homicides resulted in forty-eight executions. It may, with truth, be said that the only certain thing about capital punishment is the uncertainty with which it is inflicted.

We cannot avoid the conclusion that the sureness of detection, reflected in the number of prosecutions, in proportion to crimes, the certainty of punishment reflected in the number of convictions, the celerity and accuracy of punishment reflected in the few appeals, are the determining factors in the very low proportion of homicidal and other crimes, rather than the severity of the punishment which is meted out. The deterrent effect of a law seems not to depend on the ugliness of its threat, but rather on the certainty and celerity with which the threatening gesture reaches home.

In place of death, what? Upon conviction of murder in the first degree, the defendant shall be sentenced to life imprisonment. Prisoners serving life sentences shall not be pardoned, nor shall their terms be commuted by the governor until they have served at least twenty years actual time, unless the highest court of the State shall make an order, in which the majority of its members concur, to the effect that: (a) Evidence which was not known at the time of the trial or which was not presented creates a probable doubt of the guilt of the accused, or (b) Facts or circumstances exist which, in the opinion of the court, make a case for executive clemency consideration. After a prisoner shall have served twenty years actual time, he shall be eligible for consideration of pardon or for commutation to a lesser term than life, and, if commuted, to a definite term of years, he may thereafter earn commutation and compensation. A substantial percentage of the earnings of the prisoner shall be applied to the support of his dependents or those of the person killed.

Capital punishment has never been and never can be anything but an uncertainty. It is a punishment for revenge, for retaliation, not for protection. We can have a punishment that is possible of application with both certainty and celerity, that presents opportunity for the individualization of treatment and that is in accord with modern criminological methods. Can we not have the vision to see the possibilities of the future, the courage and faith to progress toward those possibilities?—*Extracts, see 5, p. 250.*

HENRY FORD

THE same people who listened to the war propaganda of ten years ago teaching the doctrine of killing are now rooting for capital punishment.

And the same crowd are backing up this present campaign for the adoption of methods of cruelty. They want to harden the sensibilities of the people, for it serves their ends to have war.

It is wrong to kill a man—everybody agrees to that. It does no good to the man and it does no good to society.

Capital punishment is as fundamentally wrong as a cure for crime as charity is wrong as a cure for poverty.

If the finances of the country were properly adjusted

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GEORGE B. LOCKWOOD

Editor, National Republic

HENRY FORD says some very wise things and some not so very wise. A recent statement of the nation's chief captain of industry—that capital punishment is advocated by persons who desire to harden the sensibilities of the people, especially by the financiers, so that they may have war—is without basis in fact. Division of opinion as to capital punishment does not run along lines of wealth or of attitude toward war. That men of wealth as a class desire war more than others is not true. War destroys wealth, threatens investments and heaps heavy taxes on property. A few speculators make money out of war, but wealth as a whole is burdened by it. There are scoundrels among financiers, as well as among other classes of people, but that financiers generally sit up nights plotting ways and means of precipitating war is a sophistry popular with demagogues but not seriously believed by anyone.

Sensibilities are not hardened more by legal executions than by private killings. Those who believe in capital punishment think it serves as a deterrent to murder and as between the victims and the perpetrators of such crimes they believe it preferable that the killers should forfeit their lives.

If punishment does not deter from crime in proportion to its severity, there is no excuse for imprisonment. But to say that one would thrust his hand into a fire as readily if he would not thus be burned as if he would is, of course, absurd.

Fear of consequences may not deter from murder those who have reached the moment of committing such an act, but knowledge that the State will protect human life from plotted murder undoubtedly does halt people from approach toward such a crime. Does not the knowledge that jumping into deep water may cause drowning prevent many people from making the leap? Neither the amateur nor the more hardened criminal loses sight of consequences of breaking the law. Imprisonment is not a sufficient deterrent in many cases. There is always the hope of release, as well as the hope of cheating the law.

Society is compelled to choose between protecting the lives of murderers and protecting the lives of their victims. We cannot cure all crime by punishment any more than we can cure all disease with surgery or medicine, but that is no argument against either medical science or capital punishment for plotted murder with people who have not substituted mawkish sentimentality for a sense of justice.

There is no more warrant for calling an execution "legal murder" than for calling imprisonment "legal human slavery," or a fine "legal theft." The first-degree murderer decrees his own execution, with full knowledge that he is doing so; the State is merely the agent which puts into execution the sentence the murderer, by his own act, knowingly imposes upon himself as truly as if he were to jump in the path of a locomotive.

It is possible to conscientiously disbelieve in capital punishment, and quite as possible conscientiously, and from the highest motives, to believe in it, and nothing is added to the discussion or the solution of the problem by the charge that belief in extreme punishment for deliberated murder is due to vicious motives. Capital punishment was inflicted one hundred years ago in this country, when financiers were scarce, in many cases where it would now be unthought of in a nation where the number and power of financiers has been greatly increased. States and nations of lowest commercial developments have the severest penal codes.

Con—continued

HENRY FORD—continued

there would be plenty of work for these boys who are committing crime, and it is my opinion every one of them would work if there was work to do.

But we kill—or want to kill—the criminal, because it seems to be the easiest way of disposing of the problems. We are taking hold of both problems (the problem of poverty and the problem of crime) by the wrong handle. I wouldn't mind giving a man a licking, but I wouldn't want to kill him.

I don't see how anyone can vote for capital punishment unless he himself were willing to be the executioner. I think there are mighty few citizens who would be willing to take that job. Then why ask the State, through any citizen, to do the killing?

I understand that Warden Lawes of Sing Sing Prison, who once was an advocate of capital punishment, has had enough of it. He is now talking against it.

I am sure capital punishment is not a deterrent to crime. Any man who has reached the point of being willing to kill another does not care whether he himself gets killed. It was only ten years ago we were teaching millions of people to kill.

If conditions in the industrial world bring a man to the point of being willing to kill to get money, you don't cure those conditions by killing the man.

The thing to do is to get at the root of the problem. And that takes us right to the door of those who are chargeable for the thousands of idle men, and who are at the same time deliberately trying to harden the hearts of the people in their attitude toward human life.

And now they have ministers and editors rooting for methods of cruelty which these same ministers would abhor to undertake with their own hands. They have them in a hysterical state, just as they were in the war days.

Back in the war days, the preachers were telling us that the United States and the world in general would get something worth while out of the war—something worth the sacrifice in human life. Well—did we get it?

The war financiers got theirs. What did the rest of the world get? These same financiers now would like to see any move made by the lawmakers that would make the people willing to hold human life cheaply.

Certainly crime should be curbed. Then let us first curb the conditions which create criminal motives in men.

That means taking definite action to rebuild a decent human money system. Any system that so vitally affects human life as the money system does should be human. But to effect this will require more than theory.—*Extracts, see 5, p. 250.*

DR. GEORGE W. KIRCHWEY

Chairman, League to Abolish Capital Punishment

THE argument for the elimination of the murderer as a menace to society is founded on an assumption which everyone who has an intimate knowledge of men convicted of murder knows to be baseless, namely, that murderers are murderers by nature, men prone to kill; or, on the other hand, that they constitute a professional class like burglars, pickpockets, robbers and the like. Each of these types may be represented among those whom the law has branded as murderers, but they constitute an insignificant fraction of the total number.

If this seems a bit too sweeping, let me assure you that it is far nearer the truth than is the popular conception of

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Pro

AMBROSE BIERCE

Essayist

"DOWN with the gallows!" is a cry not unfamiliar in America. There is always a movement afoot to make odious the just principle of "a life for a life"—to represent it as "a relic of barbarism," "a usurpation of the divine authority" and the rotten rest of it. The law making murder punishable by death is as purely a measure of self-defense as is the display of a pistol to one diligently endeavoring to kill without provocation. Even the most brainless opponent of "capital punishment" would do that if he knew enough. It is in precisely the same sense an admonition, a warning to abstain from crime. Society says by that law: "If you kill one of us you die," just as by display of the pistol the individual whose life is attacked says: "Desist or be shot." To be effective the warning in either case must be more than an idle threat. Even the most unearthly reasoner among the gallows-downing unfortunates would hardly expect to frighten away an assassin who knew the pistol to be unloaded. Of course, these queer illogicians cannot be made to understand that their position commits them to absolute non-resistance to any kind of aggression, and that is fortunate for the rest of us, for if as Christians they frankly and consistently took that ground we should be under the miserable necessity of respecting them.

We have good reason to hold that the horrible prevalence of murder in this country is due to the fact that we do not execute our laws—that the death penalty is threatened but not inflicted—that the pistol is not loaded. In civilized countries, where there is enough respect for the laws to administer them, there is enough to obey them. While man still has as much of the ancestral brute as his skin can hold without cracking, we shall have thieves and demagogues and anarchists and assassins and persons with a private system of lexicography who define hanging as murder and murder as mischance, and many another disagreeable creation, but in all this welter of crime and stupidity are areas where human life is comparatively secure against the human hand. It is at least a significant coincidence that in these the death penalty for murder is fairly well enforced by judges who do not derive any part of their authority from those for whose restraint and punishment they hold it. Against the life of one guiltless person the lives of ten thousand murderers count for nothing; their hanging is a public good, without reference to the crimes that disclose their deserts. If we could discover them by other signs than their bloody deeds, they should be hanged, anyhow. Unfortunately we must have a death as evidence. The scientists who will tell us how to recognize the potential assassin, and persuade us to kill him, will be the greatest benefactor of his century.

If murder is unjust, of what importance is it whether its punishment by death be just or not?—nobody needs to incur it. Men are not drafted for the death penalty; they volunteer. "Then it is not deterrent," mutters the gentleman whose rude forefather pelted the hangman. Well, as to that, the law, which is to accomplish more than a part of its purpose must be awaited with great patience. Every murder proves that hanging is not altogether deterrent; every hanging that it is somewhat deterrent—it deters the person hanged. A man's first murder is his crime, his second is ours.

The voice of Theosophy has been heard in favor of downing the gallows. As usual the voice is a trifle vague. It would be hardly fair to take them as seriously as they take themselves, but when any considerable number of apparently earnest citizens unite in a petition to the Governor of their

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DR. GEORGE W. KIRCHWEY—continued

the murderer. I made it my business to know every man in the death-house while I was warden at Sing Sing. The only characteristic that they had in common was that they were sick, tortured souls over whom hung the pall of the awful fate that awaited them, men who, but for the accident of fate—some jam in the wheels of life, some uprush of upsetting emotion, some bewilderment of the faculties—might have been even as you and I are this day.

The popular picture of the murderer as the pestilential enemy, whom it is necessary to kill as one kills a man-eating tiger, will find its proper place along with other outworn delusions, like the heretic and the witch.

In answering the argument for capital punishment—the value and the necessity of the death penalty as a deterrent influence—we enter a wide field of conjecture. Isolated instances which seem to show the efficacy of the remedy are matched by other instances which show the contrary.

In the first place, we have no trustworthy statistics of murder in the United States. But even if our figures were reliable, we should still be far from establishing a relation between murder and the death penalty, inasmuch as the statistics do not discriminate between willful and accidental or excusable murder. The criminal law recognizes six different varieties of homicides—murder, first and second degree; manslaughter, first and second degree; excusable homicide and justifiable homicide—only the first and rarest of which, deliberate and premeditated murder not committed in the heat of passion or on a sudden impulse, is punishable by death. As only a trial can determine to which of these classes a given homicide belongs, and as only a small percentage of known homicides are, in fact, ever brought to trial, it is certainly "going some" to argue from the general homicide rate in a given year to the efficacy of the death penalty as administered in the same city or county during the preceding year.

The figures as to the percentage of homicides in States and countries having the death penalty and in those that have abolished it, practically cancel one another.

The data relating to this phase of the problem was studied in detail by Governor Harry L. Davis of Ohio in 1922, who compared the homicide rate "before and after taking" in the five States which, after a repeal of the death penalty, had re-enacted it, and who made a similar comparison as between States which had abolished capital punishment and others of like economic and social conditions which retained the death penalty.

And this is Governor Davis' conclusion:

It is easily to be seen that, on the whole, it appears to make little difference in the prevalence or scarcity of homicides whether the punishment is death or life imprisonment. In fact, there would seem to be a slight lessening of homicides where no death penalty exists. At any rate, the figures tend definitely to show that the deterrent effect of capital punishment is largely mythical and merely an imaginary factor.

The same uncertainty and vacillation with respect to the efficacy of capital punishment which we have noted in this country appears to prevail in Europe and other foreign countries as well. Where, as in Holland, Italy, Norway and most of the Swiss Cantons, the death penalty has long been dispensed with, no increase in homicidal crime has resulted. In some of these countries, indeed, there has been a notable decrease.

It has become a truism that it is not the severity but the

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AMROSE BIERCE—continued

State to commute the death sentence of a convicted assassin without alleging a doubt of his guilt the phenomenon challenges a certain attention to what they do allege. What these amiable persons hold, it seems, is the expediency of abolishing the death penalty; but apparently they do not hold that the assassins should begin. They want the State to begin, believing that the magnanimous example will effect a change of heart in those about to murder. This, I take it, is the meaning of their assertion that "death penalties have not the deterring influence which imprisonment for life carries." In this they obviously err; death deters at least the person who suffers it—he commits no more murder; whereas the assassin who is imprisoned for life and immune from further punishment may with impunity kill his keeper or whomsoever he may be able to get at. Even as matters now are, the most incessant vigilance is required to prevent convicts in prison from murdering their attendants and one another. A penitentiary may be described as a place of punishment and reward; and under the system proposed the difference in desirableness between a sentence and an appointment would be virtually effaced. To overcome this objection a life sentence would have to mean solitary confinement, and that means insanity. Is that what these Theosophical gentlemen propose to substitute for death?

These petitioners call the death penalty "a relic of barbarism," which is neither conclusive nor true. What is required is not loose assertion and dog-eared phrases, but evidence of futility, or, in lack of that, cogent reasoning. It is true that the most barbarous nations inflict the death penalty most frequently and for the greatest number of offenses, but that is because barbarians are more criminal in instinct and less easily controlled by gentle methods than civilized peoples. That is why we call them barbarous. It is not so very long since our English ancestors punished more than forty kinds of crime with death. The fact that the executioner had his hands full does not show that the laws were futile; it shows that the dear old boys from whom we are proud to derive ourselves were a bad lot—of which we have abundant corroborative evidence in their brutal pastimes and in their manners and customs generally. To have restrained that crowd by the rose-water methods of modern penology—that is unthinkable.

The death penalty, say the memorialists, "creates blood-thirstiness in the unthinking masses and defeats its own ends. It is a cause of murder, not a check." Let them try to trace and lucidly expound the chain of motives lying between the knowledge that a murderer has been hanged and the wish to commit a murder. How, precisely, does the one beget the other? By what unearthly process of reasoning does a man turning away from the gallows persuade himself that it is expedient to incur the danger of hanging? Let us have pointed out to us the several steps in that remarkable mental progress. Obviously, the thing is absurd.

Here are two of these gentlemen's dicta:

"It (the death penalty) punishes the innocent a thousand times more than the guilty. Death is merciful to the tortures which the living relatives must undergo. And they have committed no crime."

"Death penalties have not the deterring influence which imprisonment for life carries. Mere death is not dreaded. See the number of suicides. Hopeless captivity is much more severe."

Merely noting that the "living relatives" whose sorrows so sympathetically affect these soft-hearted persons are those of the murderer, not those of his victim, let us consider what

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DR. GEORGE W. KIRCHWEY—continued

certainty of punishment that gives it its deterrent effect. We recognize this at once in the case of the dog or child in whom we seek by the dread of punishment to form the habits that we think it desirable to inculcate. Is the case different with children of larger growth? If these are more reflective, they are also shrewder, more given to calculating chances. Who can tell us what the danger of detection and punishment is in the case of the man or woman plotting a murder?

Out of more than seven thousand homicides (estimated) in the United States in 1917, only eighty-five were executed. Of course, not every homicide is deliberate murder, but, even if not more than half can be so classed, it is still true that one murderer out of every thirty-five or forty pays the full penalty of his act. These figures render the deterrent argument in favor of capital punishment extremely weak. Every criminal knows that few murderers are executed and he reasonably expects to be one of the thirty-four out of every thirty-five who are spared the extreme punishment.

Everyone recognizes that the deterrent effect of punishment depends on its swiftness as well as on its certainty. The criminal who has lain in jail or been at large for months or years, until everybody has forgotten him and his crime, comes to be regarded as the victim of a system which kills to make good, rather than an awful example of the consequences of crime.

There is a widespread movement afoot in this country to remedy these evils and to make our criminal procedure more swift and certain, but I submit that nothing that we can hope to accomplish in that direction will relieve the death penalty of its precarious character. It will to the end be a gamble, with the chances enormously in favor of the murderer.

For this conviction I have two reasons—the increasing unwillingness of juries to convict of murder in the first degree and the inveterate tendency of governors of States to employ the pardon power to save men from the gallows or the electric chair.

Will any improvement of the machinery of criminal justice give us hard-boiled, law-fearing judges and jurors and prosecuting officials and governors? There is no such thing as the automatic enforcement of law. Law is law only in so far as public opinion permits or compels its enforcement, and public opinion in the United States has set the seal of its condemnation on the death penalty.

Sir James Mackintosh declared that at least one innocent man was hanged by the High Court in England every three years. How many do you suppose our five hundred American criminal courts, with their less exact procedure, execute every year?

The type of lawyer that falls to the lot of the poor in our criminal courts, their friendlessness and lack of financial resources, leaves them too often at the mercy of the shrewd and practiced district attorney whose business it is to convict and who cannot afford to indulge the scruples or to encourage the doubts and hamper efficiency. Clearly, for such as these, the dice of justice are loaded.

No human instrumentality is fit to pronounce and execute an irrevocable judgment. Only omniscience, directed by infinite wisdom and charity, can be entrusted with that awful power. "Vengeance is mine; I will repay," saith the Lord. And to us he says, "Judge not, that ye be not judged." So, like Lafayette, I shall continue to demand the

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AMBROSE BIERCE—continued

they really say, not what they think they say: "Death is no very great punishment, for the criminal doesn't mind it much, but hopeless captivity is a very great punishment, indeed. Therefore, let us spare the assassin's family the torture they will suffer if we inflict the lighter penalty. Let us make it easier for them by inflicting the severer one." There is sense for you!—sense of the sound old fruity Theosophical sort.

As to "hopeless captivity," though, there is no such thing. In legislation, today cannot bind tomorrow. By an act of the legislature—even by a constitutional prohibition, we may do away with the pardoning power, but laws can be repealed, constitutions amended.

The public has a short memory, signatures to petitions in the line of mercy are had for the asking, and tender-hearted Governors are familiar afflictions. We have life sentences already, and sometimes they are served to the end—if the end comes soon enough! But the average length of "life imprisonment" is, I am told, a little more than seven years. Hope springs eternal in the human breast, and matters simply cannot be so arranged that in entering the penitentiary he will "leave hope behind." Hopeless captivity is a dream.

Whatever an individual may rightly do to protect himself, society may rightly do to protect him, for he is a part of itself. If he may rightly take life in defending himself, society may rightly take life in defending him. If society may rightly take life in defending him, it may rightly threaten to take it. Having rightly and mercifully threatened to take it, it not only rightly may take it, but expediently must.

The law of a life for a life does not altogether prevent murder. No law can altogether prevent any form of crime, nor is it desirable that it should. Constituted as we are, we can know good only by contrast with evil. In the thin air of universal morality the altar-fires of honor, and the beacons of conscience could not be kept alight. A community without crime would be a community without warm and elevated sentiments—without the sense of justice, without generosity, without courage, without magnanimity. We can have too much of crime, no doubt; what the wholesome proportion is none can say. Just now we are running a good deal to murder, but he who can gravely attribute that phenomenon, or any part of it, to infliction of the death penalty, instead of virtual immunity from any penalty at all, is justly entitled to the innocent satisfaction that comes of being a simpleton.

The New Woman is against the death penalty, naturally, for she is hot and hardy in the conviction that whatever is wrong. She has visited this world in order to straighten things about a bit, and is in distress lest the number of things be insufficient to her need. There can be no doubt that the vast majority of women have sentimental objections to the death penalty that quite outweigh such practical considerations in its favor as they can be persuaded to comprehend. Aided by the minority of men afflicted by the same mental malady, they will indubitably effect its abolition in the first lustrum of their political activity. The New Woman will scarcely feel the seat of power warm beneath her before giving to the assassin's "unhand me villain!" the authority of law. So we shall make again the old experiment, discredited by a thousand failures, of preventing crime by tenderness to caught criminals. And the criminal uncaught will treat us to a quality of toughness notably augmented by the Christian spirit of the régime.—*Extracts, see 9, p. 250.*

Con—continued

DR. GEORGE W. KIRCHWEY—continued

abolition of the death penalty until I have the infallibility of human judgment demonstrated to me.

The question for us is not how to deal with the individual, but with a condition of which the individual is only a symptom, and from this point of view our concern is the causes that have made him and others like him what they are—not to find excuses, but remedies.

If we are to eradicate or even appreciably modify the evil, we must go to the root of the matter, find the deep-lying causes and deal with them. It is not the murderer, but murder, that is the enemy.—*Extracts, see 8, p. 250.*

RUPERT HUGHES

Novelist

MURDER is not increasing with any regularity, yet it remains at so high a rate that we stand out like a tower among the nations of the world for crime of every sort, especially murder.

We all love our country. We are all justly proud of the magnificent good things it has done. We all suffer from the mysterious total of wickedness. We are all eager for a cure.

But in this as in all other of life's problems put no trust in people who guarantee a cure by the simple method of lopping off the offending member.

A recent sensational murder has made the blood of the public run cold, yet the judge who sentenced the criminals to death appeals against the law he had to administer, as does the warden of the prison.

Thousands of other people whom only an infatuated fanatic could call "sob sisters" or sentimental nincompoops, agree with the judge and the warden.

One phase of the problem that I have not seen emphasized is vital to it, and that is the unfairness and discrimination inevitable to the system. Nobody dares to propose an absolutely automatic and invariable rule that everybody without exception who kills anybody shall suffer death. Such a rule would be intolerable. Yet any other rule lets in a multitude of excuses for leniency, favoritism, local prejudice, temporary passion and mob fickleness.

Our murder laws are like our divorce laws. There is no creed or system that can be called American. We find States where there is a genuine attempt to punish murder with prompt and almost relentless death, and States in which it is practically impossible to get anybody put to death who has a friend or a penny to buy a good lawyer with. It is all very well to say that the murderer should have been the first to avoid inflicting death, but the argument is overweighed by many considerations.

The inevitable consequences of our differing State laws is an atrocious partiality, a miserable sense that luck determines the penalty.

The upper classes, mentally or financially, have always been granted "all the advantages."

But there is something inherent in human nature that protests against punishing a poor man for doing what a rich man has done with impunity. It is a beautiful spirit, but like all other virtues, has its baffling effects when misapplied; and, being an emotional as well as an intellectual process, it is bound to be deeply stirred at inconvenient times by uncontrollable impulses.

And right here is the confusion and thwarting of all the arguments in favor of capital punishment.

If anybody is ever going to be put to death for murder,

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MASSACHUSETTS CIVIC ALLIANCE

THE experiment of abolishing capital punishment was tried by seven States from 1911 to 1917. The results were so sanguinary that by the year 1919 six had re-established the death penalty, and in the seventh the Chiefs of Police are seeking the same end.

The movement abolishing capital punishment does an injustice to those bereaved by the murderer. The lives of our good citizens are worth as much as the lives of their slayers. They are worth more. Juries have often returned verdicts that have loudly said that they are not.

Crime will increase when murder shall be punished only by imprisonment during life. What deterrent penalty will robbers fear to prevent their murdering when committing a crime? None. What added punishment will long-term prisoners fear to prevent their murdering their keepers to escape? None. Rhode Island, without capital punishment for the people, felt obliged to return to it for their prisons in 1882.

The sanctity of human life makes advisable that every crime of murder should be treated alike as in Canada and other lands.

England, which has constantly employed hanging as a punishment for murder, is the only country of Europe showing a sensible diminution of crime. In Switzerland, as a result of the abolition of the death penalty in 1874, it has been ascertained that there ensued an increase in this crime estimated at 75 per cent for five years alone—a circumstance which decided many of the cantons to re-establish the punishment in question.

Personal prejudice, often mistaken for conscience, ought not to stand in the way of public protection of human lives. Jurors should regard their oaths to render verdicts by the evidence, regardless of penalty or their personal feelings.

Neither should the accident of birth control the penalty. Certain bills exempt from capital punishment such murderers as are under eighteen years. Guilt and danger to society are as great when the slaying is done before the eighteenth birthday as after that event; and society is unprotected when manslaying is unpunished, whether the guilty be man, woman or boy.

Legislation ought not be turned out of proper channels for fear it will not be enforced by jurors, or other public officials. In some States juries have been given the power not only to find the fact but to determine the degree of the crime; or to fix the punishment for murder at imprisonment or death. Are they competent? Being drawn by lot, they should not be required to make the law and decide whether it shall be life in prison or death. Lawmaking is a legislative function.

Opponents of capital punishment, with nothing to take its place as a deterrent, try to weaken public support for it by saying it is revenge and inconsistent with enlightened Christianity. It is rather vindication of justice, a Commonwealth's noblest act, and vindication is not vindictive.

Solitary confinement means death deferred and causes insanity. It is more cruel than the one merciful stroke, which immediately surrenders the offender, against the Divine image in man, to his Judge.

To substitute imprisonment is to jeopardize lives of prison guards. Recently three convicts slew the Warden of the New York Tombs Prison and six convicts slew the Warden of the Illinois Penitentiary in their efforts to escape.

The right of the State to take life is questioned, but who

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RUPERT HUGHES—continued

I should think the professional good man should be put to death first. To my poor brain it seems that if an illiterate, ill-bred slum rat is put to death for murder, a clergyman who kills should be put to death twice.

The gigantic Federation of Women's Clubs has tried for years to get a uniform divorce law passed. How long will it take to get a uniform law of punishment for murder?

There is no subject before us on which opinion is more divided or the extremes farther apart.

Millions of our people cry out for capital punishment. Millions of our people cry out against it.

How can we be surprised that juries are not easily persuaded to unanimous verdicts in the face of such national and world-wide dissent, especially when they also face the repentant victim of some emotional complex and realize that killing him will neither bring back the dead nor cure the next murderer?

Keeping this tremendous disagreement in view, does it not seem that the first duty of the believers in capital punishment is to convince the opponents of it? Does it not seem unfair and heartless as well as horribly futile to put to death here and there some wretch whose chief guilt is that he committed his crime in the wrong State or picked the wrong lawyer?—*Extracts, see 10, p. 250.*

LEAGUE FOR ABOLITION OF CAPITAL PUNISHMENT

REASONS why capital punishment should be abolished:

Because it is not a deterrent. If it were, murder would have increased in the States and in the countries which have already abolished the death penalty. In most of these States and countries murder has decreased. In no abolition State or country has there been an increase.

The demand for the abolition of capital punishment is growing: Fourteen States since 1916 have sought to abolish capital punishment: Ohio, Illinois, California, Pennsylvania, Colorado, Utah, Vermont, Virginia, Massachusetts, Indiana, Nebraska, Delaware, New Hampshire and New York.

It is irrevocable. There have been proven cases of the conviction of innocent men.

The death penalty falls almost invariably on the poor and helpless. The wealthy and powerful, those who can muster attorneys and influence, escape. Capital punishment as an institution has thus made a mockery of justice and the jury system.

Because juries more and more refuse to convict in first-degree murder cases. Society is endangered by allowing the guilty to go free. In States which have abolished capital punishment there is a higher percentage of convictions.

Of the one hundred and more victims, the large majority are between the ages of sixteen and twenty-four years. These are not our figures; they are the figures of statisticians. Scientists claim a man has not attained his full mental growth before the age of thirty.

Having assumed the leadership in the movement against capital punishment, Mr. Lawes began to assemble facts showing the infrequency of executions in comparison with the number of homicides. His statistics show that about 10,000 homicides occur annually in the United States, with only slightly more than 100 executions. A murderer in New York has an 85-to-1 chance of escaping the electric chair.

Because capital punishment is an advertisement of murder. Newspapers give wide publicity to morbid or dramatic details of executions. The effect on many is demoralizing.

Continued on next page

Con—continued**MASSACHUSETTS CIVIC ALLIANCE—continued**

denies that individuals have the right to take life, if necessary, in self-defense? If one person, much more the State.

Garofalo says: "In reality there is no abolition of the death penalty. In relinquishing its own right to inflict this punishment, the State thereby recognizes in others the right to take life. We are here confronted with a vicious circle. Is it not better that death be inflicted by the State than by individuals? That is the sole question."—*Ext.*, see 6, p. 250.

HENRY BARRETT CHAMBERLIN*Operating Director, Chicago Crime Commission*

CAPITAL punishment is lawful. In the present state of society, I believe it is necessary, reasonable and just. At the outset I shall assume that no one will dispute the authority of government to maintain itself at any necessary cost of life or property.

Where there is a collision of rights, even though it be the natural right of the individual to protect his own life and the right of society to preserve itself, the right of the individual must be set aside in the interest of the group.

Life imprisonment is not as effective in ridding society of criminals and of preventing their operation as is capital punishment. The life sentence carries with it also the possibilities of escape and the hope of executive clemency.

Abolition of the death penalty for murder in this country usually has been for short period followed by its restoration when the murder rate rose. Murder in France increased 68 per cent after the abolition of the death penalty and the guillotine was restored in 1909.

The murder rate in the United States is rising, not because capital punishment is not the proper penalty for murder but in the opinion of our greatest statesmen because capital punishment is not inflicted in all cases of deliberate murder and because sentimentalists, well meaning and sincere, but badly misguided, are giving most of their attention to the consideration of the murderer rather than to his victim.

The first duty of the community is to protect the law-abiding from the law-breaker, not to encourage murder, robbery and burglary by showing greater sympathy for the criminal than for his victim.

Life imprisonment, when a final sentence, is an invitation to the imprisoned murderer to slay wantonly, if necessary, to effect an escape or to avenge a slight or fancied wrong for he knows that his penalty can under no conditions be increased.

Even the most ardent advocates of life imprisonment as punishment for murder admit without hesitancy that it is necessary to provide the death penalty for murders committed by men under life sentence.

Criminals are punished not because we hate them, nor because we lack sympathy for sufferings they must endure because of their crime, but because it must be made impossible for them to repeat their crimes and that through their sufferings they shall be an example to others of like inclination.

The importance of the death penalty for murder lies in the fact that it has proved to be a deterrent. It is a service to society. A protection of the group against the individual who is not influenced by the laws of God or man.

I do believe that the fear of death is a deterrent to all deeds. It is to me. I have been in the Military Intelligence service and have commanded combat troops and I have found in times of stress that the only possible way to control groups of men under strain was to threaten them with death.

—*Extracts*, see 8, p. 250.

Pro—continued**LEAGUE FOR ABOLITION OF CAPITAL PUNISHMENT—cont.**

Because it inflicts shame and suffering on the innocent relatives of the condemned, without alleviating the suffering of the victim's friends. A second death cannot undo the first.

Because it is demoralizing to prison officials and prison inmates. The majority of the prison wardens of the United States, and all modern penologists and psychiatrists, deplore the effect of capital punishment.

The warden of a prison where the mechanics of capital punishment is carried out is the agent of the law. Capital punishment is to him more than an academic subject.

Thus far Mr. Lawes has received twenty-seven replies to his letters. The opinions of prison officials with respect to capital punishment are as follows:

Against capital punishment—10.

In favor of capital punishment—10.

Undecided or declining an opinion—6.

In favor, except by convictions on circumstantial evidence—1.

Because our belief in the sanctity of human life should forbid the State (which is you and I) to imitate the murderer. "The business of the modern community is to reform the offender."

Because we do not want the United States to be the last country to take this penal step ahead.—*Extracts*, see 5, p. 250.

DR. LOUIS N. ROBINSON*Head, Department of Economics, Swarthmore College*

Dr. Robinson is the Secretary of the Sub-committee on Pardons, Parole, Probation, Penal Laws and Institutional Correction of the National Crime Commission. A report by this committee covering capital punishment will be published in the Spring of 1928.

WHAT should be our conclusions with respect to the use of capital punishment? Should this penalty be retained on our statute books or should the gallows and the electric chair be turned over to museums? Fortunately, it is now possible to measure the worth of many of the arguments in a scientific way.

It is stated that there is no such thing as life imprisonment. If this is true, then the argument falls to the ground that the life of the keeper would be greatly endangered by life termers who would hesitate at nothing because they know they have no greater punishment to fear. If pardon or release in some form is a certainty, as the first argument implies, then the motive for good conduct on the part of the prisoners still remains. As a rule, life-termers are easy to get along with and are often among the most trusted prisoners of an institution. This is the universal testimony of wardens.

With respect to a possible increase in lynchings should the death penalty be given up, what evidence there is points to the opposite conclusions. There are fewer lynchings in those States of the United States which do not have the death penalty than in many of those which do. Indeed, in those States which make the greatest use of the death penalty, occur the largest number of lynchings. Lynchings are to be explained on the ground of racial and political circumstances and not in connection with the use or non-use of capital punishment.

Professor Liepmann¹ cites case after case where, mistakes having actually occurred in judgment, the penalty has, alas! been carried out upon an innocent man. Granted that mis-

¹A study on capital punishment, 1912, by Dr. M. Liepmann, Professor of Law, Kiel, Germany.

Continued on next page

Pro—continued

HON. GEORGE W. HAYS

Former Governor of Arkansas

I AM not one of those who hold to the reactionary conviction that the individual that sheds his brother's blood should pay the death penalty primarily to satisfy the spirit of retribution, which perhaps is only a pleasanter term for revenge. Rather I believe that the murderer should be given the opportunity to reform.

Theoretically, I believe capital punishment might well be abolished, but actually to do away with it in our present stage of development would be unwise and dangerous. Judging from my own experiences and observations I believe that mob violence would be the result.

Capital punishment, I am forced to believe in the light of reality, is at times a necessity. Call it a regrettable one, if you will, but nevertheless there are times when it seems unavoidable and inevitable.

The idea of capital punishment is of great antiquity, and formed a part of the primal concepts of the human race. Originally the theory of punishment was vindictive, pure and simple, and oftentimes the victim's nearest of kin was authorized, in the judgment of primitive society, in taking the life of the murderer.

Later the aim of punishment developed to include the deterring of others from the commission of crimes, and up until quite recent times savage spectacles of public execution were regarded not only as justifiable, but as right, and of the greatest importance. What was then regarded as necessary and exemplary is now considered harmful and barbaric.

During the seventeenth and eighteenth centuries there were more than two hundred crimes punishable by death in civilized European nations. A veritable orgy of public executions and torture prevailed. Society, at that time, had not learned the lesson that savagery begets savagery—nor that excessive punishment is wrong in principle.

The power of suggestion, alone, disproved this theory, and a veritable carnival of crime frequently followed on the heels of notable public executions. Little children who had witnessed them often tortured and killed their pet animals, and even inflicted cruelties on one another.

If the penal laws of the past teach us anything, they teach us that crime cannot be checked by severity alone. Modern law enforcement seeks the reformation of the criminal for his own good as well as for the welfare of society. In punishing the wrong-doer, governments can rightfully have but two ends in view: Prevention of the individual from repeating his offense and deterring others from following in his steps. Governments are authorized to inflict penalties in order to prevent evils rather than for the purpose of punishing guilt.

Theoretically, society has no right to take life for life. Capital punishment is a remnant of barbarity that must surely disappear from the earth with the progress of civilization, just as the knout, the pillory, and the burnings in oil have disappeared. In our present state of development, it is no longer an abstract question of whether capital punishment is right, but whether the abolition of capital punishment is practicable.

We have reached the stage where executions are conducted as privately as possible and as mercifully. Only three classes of homicide are visited with the death penalty: Deliberate intention to kill, when the killing is preceded by or accompanied with some grave crime, and when reckless disregard of innocent human beings is shown, such as train-wrecking or bomb-throwing. Even such crimes as these do not invariably result in the payment of the supreme price.

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Con—continued

DR. LOUIS N. ROBINSON—continued

takes do occur, we have still to consider whether this great risk which innocent people must endure wherever capital punishment is in force, is not after all a social necessity. This question leads us directly to the main argument on both sides; that is, the influence of the death penalty on the prevention of crime, for if, as the opponents of the death penalty argue, capital punishment does not prevent crime, then there is no use in the whole public submitting to the general risk, possibly, of dying for a crime not committed; but if, on the other hand, capital punishment is the powerful restraint that is claimed for it, then from the social standpoint it may be well to run the risk for the sake of increased social protection.

In none of the States or countries where capital punishment has been abolished does Professor Liepmann find evidence that any increase in crime resulted from the change. Referring to a table of homicides in the registration area of the United States, Professor Bye³ says: "It will be seen from the above table that there is no measurable relation between the existence or non-existence of capital punishment and the homicide rate." More interesting still is the fact that the power of the death penalty as a deterrent has been greatly overestimated in those States which still retain it, for the reason that a very large percentage of the death sentences are never carried out.

Commutations to imprisonment is much more common than is generally supposed. Statistics for England show that from 1870 to 1910, inclusive, the number of death penalties which were commuted to imprisonment amounted to 44 per cent of the total number of death penalties imposed by the courts during this period. If then, as Professor Liepmann says, the chances of being hanged are less today than being struck by lightning, how then can the death penalty be considered as a deterrent without which society would be endangered? The only conclusion to which one can come is that capital punishment is in no way superior to imprisonment as a deterrent and that it is not worth while to run the risk, however small, of putting innocent people to death.

Little need be said concerning the argument of reformation secured on the way to death. It does society no good and there seems to be no sufficient reason for interfering forcibly in those relations which are solely the concern of God and the criminal himself.

The brutalizing effect of executions, even when privately conducted, cannot be denied. The State itself cheapens human life when it orders its officers to kill a man.

The death penalty stands in the way of conviction. Professor Bye states that such evidence as he has been able to gather indicates that juries are unwilling to convict for any offense which would entail a serious punishment. This is notoriously the case where the individual is a woman. Now all are agreed that punishment, to be of any great value, must be speedy and certain, and the death penalty standing in the way of this, is therefore more probably an obstacle than a help in the elimination of crime.—*Extracts, see 2, p. 250.*

SAMUEL GOMPERS

Late President, American Federation of Labor

THE American Federation of Labor has declared its opposition to capital punishment. In 1895 it adopted a resolution declaring capital punishment a barbarous and "revolting practice" and one that should be abolished. That was my opinion at that time and for many years before.

³"Capital Punishment in the United States," 1919, by Professor Raymond T. Bye.

Pro—continued

HON. GEORGE W. HAYES—continued

For certain crimes no legal punishment other than death to the perpetrator can satisfy the popular sense of retribution. To frustrate this instinct must result in the summary justice of lynching, which instead of furnishing any social protection becomes a great moral danger, and leads to the taking of the lives of innocent people. It is plainly evident that if capital punishment were abolished and the blood-curdling assaults were unpunishable by death, mob violence would be supreme. If the death penalty were to be removed from our statute-books, the tendency to commit deeds of violence would be heightened owing to this problem.

Most of us admit that the death penalty does not tend to diminish capital crimes. Observation of cases of crime shows us that the thought of the punishment is either not present at all when a violent act is committed, or it is overwhelmed by a conviction of the certainty of escape.

No, the taking of life does not prevent murders. Like war, capital punishment may be classed as a remnant of barbarism.

Which brings me back to my first conclusion about capital punishment: That we have not yet reached that happy time when it may be safely and definitely written out of the laws of the land.—*Extracts, see 20, p. 250.*

HON. ALVAN T. FULLER

Governor of Massachusetts

ONLY a cold, unerring threat at his own life gives the criminal pause. One thing I have particularly emphasized is strict enforcement of the law of capital punishment for those who have taken human life. I believe in it as the only thing to check wanton crimes of violence.—*Extracts, see 14, p. 250.*

DR. ALBERT EINSTEIN

Professor of Theoretical Physics, University of Berlin

THERE is no reason why society should not rid itself of individuals proved socially harmful. Society has no greater right to condemn a person to life imprisonment than it has to sentence him to death.—*Berliner Tageblatt.*

THEODORE ROOSEVELT

Former President of the United States

I HAVE always felt impatient contempt for the effort to abolish the death penalty on account of sympathy with criminals. I am willing to listen to arguments in favor of abolishing the death penalty so far as they are based purely on grounds of public expediency, although these arguments have never convinced me. But inasmuch as, without hesitation, I have again and again sent good and gallant and upright men to die, it seems to me the height of a folly both mischievous and mawkish to contend that criminals who have deserved the death should nevertheless be allowed to shirk it. No brave and good man can properly shirk death, and no criminal who has earned death should be allowed to shirk it.—*Extracts, see 11, p. 250.*

THOMAS CARLYLE

Essayist

A SCOUNDREL is a scoundrel; that remains forever a fact; and there exists not in the earth whitewash that can make the scoundrel a friend of this universe; he remains

*Continued on next page***Con—continued**

HON. JOHN J. BLAINE

U. S. Senator, Wisconsin, Republican

IF we could arrive at an agreement as to the objects of punishment, the form of punishment would not be so difficult to establish. I am convinced that the old doctrine of an eye for an eye and a tooth for a tooth cannot be sustained as the basis of punishment.

Our present social organization, with the advance of science and the study of crime and its causes, will lead any thoughtful person to a conclusion quite contrary to the doctrine of vengeance or retribution.

I doubt if there is any considerable number of thoughtful people who believe that punishment is for retribution or revenge. We have moved a step forward from that position. Reformation of the culprit is becoming more and more the accepted theory of punishment.—*Extracts, see 15, p. 250.*

HON. NEWTON D. BAKER

Former U. S. Secretary of War

CAPITAL punishment is wrong. It is based on a false theory. It cannot stand the light of day. Anything that is wrong must hide in the dark just as capital punishment does today. They don't kill people publicly any more. It is done in the dark and those who are forced by the nature of their duties to witness these scenes cannot sleep for weeks. The State finds it difficult in these days to obtain the services of an executioner. Nobody wants the task. Anybody who believes in capital punishment belongs to the day when they burned people for being witches. People are not made good by force, but by love.—*Extracts, see 18, p. 250.*

HON. A. O. EBERHART

Former Governor of Minnesota

THREE years ago we abolished capital punishment in Minnesota and those who favored this antiquated method of dealing with crime predicted as a result there would be a wave of crime sweep over the State. An attempt was made at the last session of our Legislature to restore the old law, but it failed signally. The records of the State prove conclusively that while there had been no apparent change in the number of crimes committed, especially murders, there was a very large increase in the percentage of convictions to the extent of approximately fifty per cent.—*Extracts, see 12, p. 250.*

WILLIAM RANDOLPH HEARST

Publisher

THERE is no deterrent in the menace of the gallows. Cruelty and viciousness are not abolished by cruelty and viciousness—not even by legalized cruelty and viciousness.

Greater severity does not prevent crime; it seems merely to promote crime.

The time for the State to protect itself against the criminal is before the criminal is made.

Most criminals are not born; they are MADE.

Crime is mainly a matter of education—of education in crime—of lack of education in decent directions.

And what the State really punishes in a criminal is its own neglect, its own failure to do its duty to the citizen.

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Pro—continued

THOMAS CARLYLE—continued

an enemy, if you spent your life in whitewashing him. He won't whitewash; this one won't. The one method clearly is that, after a fair trial you dissolve partnership with him; send him, in the name of Heaven, whither he is striving all this while, and have done with him.—*Essay on Model Prisons.*

DANIEL WEBSTER
Statesman

THE criminal law is not founded in a principle of vengeance. It does not punish that it may inflict suffering. The humanity of law feels and regrets every pain it causes, every hour of restraint it imposes, and more deeply still, every life it forfeits. But it uses evil as a means of preventing greater evil. It seeks to deter from crime by the example of punishment. This is its true and only true object. It restrains the liberty of the few offenders, that the many who do not offend may enjoy their own liberty. It forfeits the life of the murderer that other murders may not be committed. When the guilty, therefore, are not punished, the law has so far failed of its purpose; the safety of the innocent is so far endangered.—*Vol. I, Speeches, p. 456.*

REV. GEORGE B. CHEEVER, D. D.

Pastor, Church of Puritans, New York City, 1846-1867

THE efficacy of the penalty against murder can be demonstrated, first, by restricting it to murder; and, second, by making it immutable and certain. The man who murders another kills himself. When the most hardened villain is sure of that, who will strike the blow? Make the penalty exceptional and inevitable, as it ought to be, and murder would be unknown under a government of infallible justice. The known certainty of the penalty would put a stop to the crime.

But the certainty that a murderer cannot at any rate be punished with death would inevitably increase the crime, presenting such a powerful temptation to murder in self-defense, during the commission of any other crime whatever. This would make murderers out of common villains. It would tempt the midnight burglar even to begin his work of robbery with assassination for security in the process, and then to complete it, double-locked from discovery by the death of all the witnesses.—*Extracts, see 17, p. 250.*

CLEVELAND PLAIN DEALER
Editorial

IF we want order, we must stop being soft-headed sentimentalists when it comes to penalizing offenders. The murder rate in the United States rises to a scandalous figure. Of the many who kill, comparatively few are ever arrested, still fewer convicted, fewer yet ever see the inside of a felon's cell; only rarely is the murderer punished as the law says he shall be. A life term is commonly a short vacation at State expense with nothing to do but eat the fruit of others' industry. Americans are not a nation of murder lovers. We merely seem to be. We are made to seem to be by ill-prepared judges, woozy jurors, and a public opinion sentimentally inclined to sympathize more with the perpetrators than the victims of major crimes. This country needs a rededication to the everlasting truth that the fear of prompt and adequate punishment is the best deterrent for gentlemen tempted to slay. This violates long book-shelves of theory.—*January 25, 1925.*

Con—continued

WILLIAM RANDOLPH HEARST—continued

We cannot cure criminality by punishment but only by education, and by a practical application of the principles of Christianity.

Our whole penal system has broken down because it is built upon the sand—founded on the basis of force and violence—instead of on the basis of Christian care of our fellow men, of moral and mental human development, of the conscientious performance by the State of its duty to the citizen.

We cannot cure murder by murder.

We must adopt another and better system.—*Editorial, 1926.*

WILL DURANT

Author, "The Story of Philosophy"

THERE are three stages in the history of punishment. It began as revenge, it continues as a deterrent, it will evolve into education. Society killed originally because it wished to wreak vengeance upon one who had wronged it.

Capital punishment was the natural expression of primitive and precarious states whose facilities for education were too narrow to develop in their citizens the moral and intellectual refinement that makes harsh laws superfluous.

Quick detection and prompt conviction would do more to cleanse our cities of their criminals than barbarous sentences revengefully enforced.—*Extracts, see 5, p. 250.*

THE REV. HENRY WARD BEECHER

Pastor, Plymouth Church, Brooklyn, N. Y., 1847-1887

IN our age there is no need of a death penalty and every consideration of reason and humanity pleads for its abolition.

While the fear of hanging does not deter men from crime, the fear of inflicting death deters many a jury from finding a just verdict and favors the escape of criminals.

THE CHRISTIAN SCIENCE MONITOR
Editorial

THE primary object of prisons and methods of punishment in general, it must never be forgotten, is not revenge, but reformation. And while it is commonly recognized that not many generations ago in every country unspeakable horrors were endured by all who were under restraint, most Americans like to feel that the United States is in the vanguard of the more humane treatment of those confined as criminals.

So long as the thought of "an eye for an eye" is what prompts punishment, it can never achieve a constructive purpose. On the other hand "loving one's enemies" does not preclude the necessary rebuke that corrects what is wrong. What needs to be eliminated is the belief that sheer cruelty, under whatever name it masquerades, can ever accomplish good. That which reforms a sinner must be prompted by love.—*August 11, 1927.*

DR. CLIFFORD KIRKPATRICK
Professor, University of Pennsylvania

THE problem of capital punishment is an old one that has appealed to the minds and hearts of many human beings widely separated in time and space.

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The White House

EDITOR'S NOTE: In the October, 1925, number, *THE CONGRESSIONAL DIGEST* inaugurated a new department. This department will report each month the outstanding public matters which have had the attention of the President during the preceding month. Such public matters will include appointments made by the President, addresses delivered by the President, executive orders, and proclamations issued by the President, etc. In the January, 1924, number of *THE CONGRESSIONAL DIGEST*, the Hon. Wm. Tyler Page, Clerk of the House of Representatives, U. S. Congress, fully described the position of the Executive under the Constitution. The July-August, 1924, number of *THE CONGRESSIONAL DIGEST* was devoted to a detailed account of the early and present system of election of the President, together with an article on the Powers and Duties of the President under the Constitution.

The President's Calendar

For the Period June 1, 1927, to August 22, 1927

June 10, 1927—Address of President Coolidge at the Thirteenth Regular Meeting of the Business Organization of the Government at Washington, D. C.

June 11, 1927—Address of President Coolidge in bestowing upon Col. Charles A. Lindbergh the Distinguished Flying Cross at Washington, D. C.

June 13, 1927—Address of President Coolidge before the First International Congress of Soil Science at Washington, D. C.

June 14, 1927—Address of President Coolidge dedicating Wicker Memorial Park to the World War veterans at Hammond, Ind.

August 10, 1927—Address of President Coolidge at the opening of the work on Rushmore Mountain in the Black Hills.

August 17, 1927—Address of President Coolidge at the Pine Ridge Indian Reservation.

Appointments (Recess)

June 6—American delegates to the Naval Limitation Conference at Geneva:

Hon. Hugh S. Gibson, American Ambassador to Belgium, Chairman of the Delegation.

Rear Admiral Hilary P. Jones, General Board of the Navy.

Rear Admiral Andrew T. Long for the Navy Department.

Rear Admiral Frank H. Schofield for the Navy Department.

The Hon. Hugh R. Wilson, American Minister to Switzerland, designated in agreement with the British and Japanese Governments as Secretary-General of the Conference.

June 8—Alvah Edgar Steadman, Hawaii, First Judge, Circuit Court First Circuit of Hawaii.

June 8—Levi H. Bancroft, Wisconsin, U. S. Attorney for Eastern District.

June 9—Harry L. Fidler, Ind. Member Federal Board for Vocational Educational (Reappointment).

June 9—To be delegates to the International Radio Conference at Washington, D. C., October 4, 1927:

Hon. Herbert Hoover, Secretary of Commerce; Senator James E. Watson, Indiana; Senator Ellison D. Smith, South Carolina; Representative Wallace H. White, Jr., Maine; Wm. R. Castle, Junior Assistant Secretary of State; (Alternate) William R. Valdane, Assistant Solicitor Department of State; Maj.-Gen. Charles M. Saltzman, U. S. A.; Capt. Thomas T. Craven, U. S. N.; W. D. Terrell, Chief Radio Division Department of Commerce; Owen D. Young, New York; (Alternate) Col. Samuel Reber, U. S. A. Ret.; John J. Carty, New York; Stephen B. Davis, Jr., New Mexico; John Beaver White, Pennsylvania; John Hays Hammond, Jr., Massachusetts; A. H. Grebe, New York; John Miller, Pennsylvania; Admiral W. H. G. Bullard, U. S. N.

June 10—Arthur J. Tyrer, District of Columbia, Com-

missioner of the Bureau of Navigation, Department of Commerce.

June 10—Seymour Lowman, New York, Assistant Secretary of Treasury.

June 10—Ira Lloyd Letts, Rhode Island, U. S. District Judge for the District of Rhode Island.

June 13—Edward J. Moinet, Michigan, to be United States District Judge, Eastern District of Michigan.

June 28—Walter O. Woods, Kansas, to be Register of the Treasury.

July 6—John T. Barrett, United States Marshal, Panama Canal Zone.

July 11—William T. Francis, Minnesota, to be Minister Resident and Consul General to Liberia.

August 9—Nelson T. Johnson, Oklahoma, to be Assistant Secretary of State.

Proclamations

July 1—A proclamation adding certain public lands to Umatilla National Forest, in Oregon.

July 20—A proclamation decreasing cresylic acid duty.

August 9—A proclamation further deferring extension of the Coastwise Shipping Laws to include the Virgin Islands until September 30, 1928.

August 19—A proclamation excluding lands from the Sequoia National Forests, California.

June 8—A proclamation increasing the duty on certain kinds of cheese.

June 8—A proclamation changing the boundaries of the Kaniku National Forest, Idaho.

June 8—A proclamation changing the boundaries of Pond Oreille National Forest, Idaho.

June 11—A proclamation transferring certain public lands in Porto Rico to the people of Porto Rico to be used for highway purposes.

Executive Orders (Public)

June 6—An executive order withdrawing certain lands in California from sale or settlement.

June 7—An executive order making Saturday a half holiday for employes at the Naval stations in the Philippines, Guam, Samoa and Honolulu during certain months of the year.

June 7—An executive order making a bird refuge of certain lands purchased for the Umatilla Forest, Oregon.

June 8—An executive order withdrawing certain public lands in Colorado from sale or settlement.

June 9—An executive order forbidding the use of air space above that portion of the District of Columbia west of the Anacostia River and north of the Potomac River for flying purposes from 11 a. m., June 11 to 6 p. m., June 12, except by Government aircraft, on account of the visit to Washington of Col. Charles Lindbergh.

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The Supreme Court of the United States

EDITOR'S NOTE: This department of THE CONGRESSIONAL DIGEST began with Vol. 3, No. 1, and is devoted to a brief non-technical review of current decisions of the U. S. Supreme Court which are of general public interest. The June, 1923, number of THE CONGRESSIONAL DIGEST printed the provisions of the Constitution of the United States upon which the Judicial Branch of our Federal Government rests. This number contained an account of the U. S. Supreme Court and the system of inferior federal courts, the relation of the Judicial Branch to the Legislative and Executive Branches of the Federal Government, and the relation between the Federal Judiciary and the States. The U. S. Supreme Court, its present procedure and work, were also described.

ON October 27, 1927, the Supreme Court of the United States will meet for the term of 1927.

On June 6, 1927, the Court, which had convened on October 26, 1926, adjourned for the summer.

On the last day of the term Mr. Chief Justice Taft announced the passing, on June 5, 1927, of William Riley Stansbury, Clerk of the Court, who had been in the service of the Court for forty-three years and who had been clerk for six years. The Chief Justice announced also the appointment of Mr. Charles Elmore Cropley, of Washington, D. C., to succeed Mr. Stansbury as Clerk.

In making this announcement the Chief Justice said:

"Mr. Cropley has already served in the Court as Page and Assistant some 18 years, but is still in the prime of life. He has great familiarity with the duties of the office and carries with him to its headship the traditions that have secured such distinguished and useful service by Mr. Stansbury and his predecessors, with the probability of a life of long usefulness."

Cases Disposed of During Term

During the 1926 term of the Court 1183 cases were placed on the docket and of these 888 were disposed of. Among these were a number of cases of marked national importance and of great public interest. A majority of the decisions involving cases of far-reaching importance upheld laws enacted by the Congress of the United States and various State Legislatures.

Decisions Upholding Federal and State Laws

Among the important laws upheld by decisions of the Court were:

Case No. 988—The Harrison Anti-Narcotic Law. *Decision, May 15, 1927.*

Case No. 3—The California Anti-Syndicalism Law. *Decision, May 16, 1927.* (See Congressional Digest, June, 1927.)

Case No. 47—The one-pint-in-ten-days prescription limitation provision of the Volstead Law. *Decision, November 27, 1926.*

Case No. 292—The Virginia law providing for the sterilization of imbeciles. *Decision, May 2, 1927.*

Case No. 851—The Treasury regulations requiring bootleggers and other violators of the law to file income tax returns and pay taxes on their illicit gains. *Decision, May 16, 1927.*

Case No. 412—The Bedford Cut Stone Case, in which the Court upheld injunctions granted by the lower courts against the refusal of union stone cutters to work on buildings using stone from non-union quarries. *Decision, February 28, 1927.*

Cases Nos. 31, 196, 799—State Laws of Ohio, California and Virginia granting the right to municipalities to establish zoning enabling acts, ordinances and regulations. *Decisions, November 29, 1926; May 16, 1927, and May 31, 1927, respectively.*

Case No. 151—The decision of the Kansas Supreme Court forbidding the Ku Klux Klan from transacting business in Kansas. *Decision, March 7, 1927.*

Decisions Invalidating State Laws

Decisions of the Court invalidating Acts of State Legislatures were rendered in the following important cases:

Case No. 117—The Texas Statute forbidding negroes the right to vote in Democratic primaries. *Decision, March 7, 1927.* (See Congressional Digest, April, 1927.)

Case No. 26—The New York Anti-Ticket Scalping Act prohibiting a profit of more than 50 cents on the resale of theater tickets. *Decision, February 28, 1927.* (See Congressional Digest, April, 1927.)

Other Cases of Public Interest

In addition to the above, the Court rendered far-reaching decisions in the following cases:

Case No. 305—The Elk Hills and Dougherty oil case. *Decision, February 28, 1927.*

Case No. 720—The Fall-Smelan Oil Lease Case. *Decision, December 6, 1927.*

Case No. 2—The case of Postmaster Frank S. Myer of Portland, Oregon, the decision which fixed definitely the power of the President to remove appointees in the Government, whose appointments are confirmed by the Senate. *Decision, October 2, 1926.* (See Congressional Digest, November, 1926.)

Case No. 1—The Louisiana case, in which the Court rendered a decision that both Federal and State authorities could prosecute a case of liquor law violation without violation of the Constitutional privilege of a citizen not to be put in jeopardy twice for the same offense. *Decision,*

Case No. 254—The International Harvester case, in which the Court held that that corporation was not operating in violation of the Sherman Anti-Trust law. *Decision, June 16, 1927.*

Work of 1926 Term as Reviewed by Chief Justice

On June 7, 1927, the day following the close of the 1926 term, Mr. Chief Justice Taft issued the following statement:

"I am glad to say that with the termination of this term, I think there are very few cases remaining that came over from the period preceding the taking effect of the new law, enacted in 1925 and changing the jurisdiction of the court.

"It appears from the comparative statement of the business disposed of in the term running to June, 1926, there were left on the docket undisposed of 451 cases, and that in the term which closed yesterday the arrears had been reduced to 295. In other words, we seem to have gained 156 cases in the reduction of our arrears.

"It is true that last year the total number of cases on the docket was 1,309, and the cases disposed of were 858, while this year the number of cases on the docket was only 1,183, and the number of cases disposed of was 888. I am hoping that this reduction of 150 cases in arrears shows a real advance. If it does we ought to be able to overcome our arrears in two years under the present law.

"There are a few more changes in the statute of jurisdiction that would help us to reduce the cases coming to us, but I don't know that it is wise to urge an amendment until

we have demonstrated by actual operation under the existing law how effective such amendments would be and how necessary they might be.

"The principle adopted in the act of February 13, 1925, was to reduce the number of cases that could come into our court as of right, and increase those which could come by preliminary application, called an application for certiorari.

"We are enabled under the present act to exercise a larger jurisdiction of a discretionary character to determine whether,

in a large class of cases, the issues presented are such that their discussion by our court would be useful in declaring the law for the benefit of the public.

"The theory is that where there is a trial court and one appellate court, the litigants, so far as the doing of justice to them is concerned, should be satisfied with the decision of the appellate court, and that that decision should be brought to the Supreme Court only when the principles to be settled by the Supreme Court will be useful to the public in settling general law."

The White House

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June 13—An executive order restoring certain lands of the Kakea Military Reservation, Honolulu, to the use of the Territory of Hawaii.

June 18—An executive order revoking order of April 25, 1925, withdrawing lands in Wyoming for resurvey.

June 18—An executive order revoking order of May 19, 1925, withdrawing public lands in New Mexico for resurvey.

June 20—An executive order transferring land at the Norfolk (Va.) Supply Base from the War Department to the Navy Department.

June 20—An executive order transferring certain lands in the Island of Porto Rico from the Navy Department to the War Department.

June 22—An executive order revoking order of October 20, 1925, withdrawing public lands in California for resurvey.

June 24—An executive order revoking order of November 20, 1924, withdrawing public lands in Colorado.

June 29—An executive order revoking order of July 16, 1925, withdrawing public lands in Arizona for resurvey.

June 29—An executive order revoking order of April 10, 1925, establishing Upton National Park Forest, N. Y., and relieving the Secretary of Agriculture of all responsibility for the administration of any portion of the Camp Upton Military Reservation as a National Forest.

June 29—An executive order withdrawing 160 acres of public lands in California for use by the Department of Commerce as an air mail beacon site or landing field.

June 29—An executive order revoking a proclamation issued December 20, 1913, withdrawing public lands in Wyoming.

June 29—An executive order setting aside certain public lands in Hawaii for use of the Fort Ranger Military Reservation.

June 30—An executive order changing the boundaries of the Juneau, Fairbanks and Nome land districts in Alaska.

July 4—An executive order authorizing United States diplomatic representatives in foreign countries to pay insurance premiums for employes where the laws of the countries require such insurance.

July 4—An executive order authorizing the use of cer-

tain public lands in Idaho to be used as a rifle range by the Idaho National Guards.

July 4—An executive order withdrawing certain public lands in Alaska for townsite purposes.

July 4—An executive order restoring to the Territory of Hawaii certain public lands set aside for military purposes.

July 7—An executive order temporarily withdrawing certain public lands in Wyoming from sale or settlement.

July 11—An executive order transferring certain portions of the Fort Ruger Military Reservation, Honolulu, to the Department of Commerce for a lighthouse station.

July 11—An executive order extending the trust on lands of the Potrero and Rincum Indians in California for a period of 10 years.

July 11—An executive order extending trust on lands of the Prairie Band of Potawatomi Indians in Kansas for a period of 10 years.

July 11—An executive order canceling Article XXII of the Consular Regulations of 1896 and making substitutes therefor.

July 11—An executive order restoring certain lands of the Fort Ruger Military Reservation, Honolulu, to the Territory of Hawaii.

July 11—An executive order authorizing and putting into effect changes in the quarantine and immigration consular regulations.

July 15—An executive order making changes in the Civil Service classification of employes on the Canal Zone.

July 15—An executive order revoking order of July 29, 1926, withdrawing public lands in Wyoming.

July 18—An executive order withdrawing public lands in Michigan from sale or settlement.

July 22—An executive order extending the trust on the lands of the Nez Pierce Indians in Idaho for 10 years.

July 25—An executive order withdrawing public lands in Utah from sale or settlement.

July 25—An executive order prescribing rules and regulations for the Foreign Service Retirement and Disability System of the State Department.

July 28—An executive order prescribing the use of Naval Prisons or Naval Stations as places of confinement for personnel of the Coast Guard sentenced to imprisonment.

July 30—An executive order withdrawing public lands in California from sale or settlement.

Recent Government Publication of General Interest

The following publications issued by various departments of the Government may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C.

Agriculture

"Emergency Crops for Flooded Lands in the Mississippi Valley"; by J. A. Evans. (Agric. Misc. Circ. 106.) Price, 5 cents. Introduction, field crops, garden crops, cutworms, canning and need of prompt cultivation.

"Prices of Farm Products Received by Producers, pt. 4, Mountain and Pacific States." (Agric. Stat. Bulletin 17.) Price, 25 cents. Introduction, tables for Montana, Idaho, Wyoming, Colorado, etc.

"Market Classes and Grades of Cattle"; by Don J. Slater. (Agric. Bulletin 1464.) Price, 25 cents. Systems of standard market classes and grades of livestock, basis for standard market classes of cattle, classifying and grading cattle, market uses of cattle, etc.

"Market Classes and Grades of Dressed Lamb and Mutton"; by W. C. Davis and J. A. Burgess. (Agric. Bulletin 1470.) Price, 15 cents. Need for standardization, definition of lamb and mutton, basis for grading lamb and mutton, etc.

"Judging Dairy Cattle"; by A. B. Nystrom and C. H. Schopmeyer. (Agric. Dept., Misc. Circ. 99.) Price, 10 cents. Introduction, major points in judging, other desirable points in conformation, the score card, etc.

"Forage Crops and Their Culture in Northern Nebraska and the Dakotas"; by Samuel Garver. (Farmers' Bulletin 1511.) Price, 10 cents. Conditions at the Redfield Field Station, place of cultivated forage crops in cropping system, preparation of seed bed for forage crops, etc.

"Cutworms in the Garden"; by W. H. White. (Agric. Dept., Leaflet No. 2.) Price, 5 cents. Where and how cutworms live, how to combat cutworms, where to obtain the arsenical poisons, etc.

"Oil Content of Flaxseed, with Comparisons of Tests for Determining Oil Content"; by D. A. Coleman and H. C. Fellows. (Agric. Bulletin 1471.) Price, 10 cents. Production and consumption of flaxseed in the United States, principal markets for flaxseed in United States, classes of flaxseed found in the trade, etc.

"United States Census of Agric., 1925, Georgia, Statistics by Counties, Final Figures." Price, 10 cents. State tables, count-tables and map.

"Fruit and Vegetable Production"; by J. C. Corbett and others. (Separate No. 931, from Yearbook 1925.) Price, 65 cents. Relation of climate and weather to fruit and vegetable production, weather and frost, weather and nuts, etc.

"Peach Brown Rot and Scab"; by J. W. Roberts and J. C. Dunegan. (Farmers' Bulletin 1527.) Price, 5 cents. Distribution and economic importance, brown rot, scab, thinning the fruits, spraying and dusting, etc.

"Experiments on Control of Plum Curculio, Brown Rot and Scab, Attacking the Peach in Georgia"; by Oliver I. Snapp and others. (Agric. Bulletin 1482.) Price, 5 cents. Introduction, Georgia peach belt, relative abundance of curculio in Georgia from 1920 to 1924, etc.

"Sea Island and Mende Cotton in the Southeastern States"; by O. F. Cook and C. B. Doyle. (Agric. Department Circular 414.) Price 5 cents. Interest in sea island cotton, lack of seed supplies, long staples, standardized products, etc.

"Natural Replacement of Blight Killed Chestnut"; by C. F. Korstian and Paul W. Stickel. (Agric. Misc. Circular 100.) Price, 5 cents. Spread of blight, salvage of blight-doomed timber, importance of chestnut replacement, nature and extent in southern New England, northern New Jersey, Pennsylvania, etc.

"The Life History of Timothy"; by Morgan W. Evans. (Agric. Bulletin 1450.) Price, 25 cents. Introduction, growth of timothy plant, the shoot, roots, the haphocorm, etc.

"Soy Beans, Culture and Varieties"; by W. J. Morse. (Farmers' Bulletin 1520.) Price, 5 cents. History of soy bean, climatic adaptations, soil preferences, varieties, descriptions of varieties, fertilizers, etc.

"Animal and Vegetable Fats and Oils, Production, Consumption, Imports, Exports and Stocks by Quarters, Calendar Years 1925 and 1926." (Bureau of the Census.) Price, 5 cents. Supply and distribution, production and consumption of animal and vegetable fats and oils, etc.

Congressional Records

"Proceedings and Debates of Second Session of Sixty-Ninth

Congress of United States of America, Also Proceedings of Senate, First Session, Sitting As a Court of Impeachment, Vol. 68, Pt. 1, November 10-December 6, 1926, to January 6, 1927 (pages 1 to 1200)." Price, \$2.25.

"Proceedings and Debates of Second Session of Sixty-Ninth Congress of United States of America, Vol. 68, Pt. 2, January 7 to January 26, 1927 (pages 1201 to 2338)." Price, \$2.25.

"Proceedings and Debates of Second Session of Sixty-Ninth Congress of United States of America, Vol. 68, Pt. 3, January 27 to February 10, 1927 (pages 2339-3482)." Price, \$2.25.

"Proceedings and Debates of Second Session of Sixty-Ninth Congress of United States of America, Vol. 68, Pt. 4, February 11 to February 23, 1927 (pages 3483 to 4636)." Price, \$2.25.

Education

"Biennial Survey of Education, 1922-1924." (Educational Bulletin, 1926, No. 23.) Price, \$1.75. Higher education, some recent movements in city school systems, constructive tendencies in rural education, etc.

Federal Finances

"Internal Revenue Bulletin, Cumulative Bulletin, V-2, July-Dec., 1926." Price, 30 cents. Treasury decisions, general counsel's memoranda, solicitors memoranda, Board of Tax Appeals, etc.

"Annual Report of the Secretary of the Treasury on State of Finances for Fiscal Year Ended June 30, 1926, With Appendices." (Treasury Department.) Price, \$1.50. Recommendations for legislation, receipts, expenditures, the surplus, the public debt, Treasury financing and the credit situation, etc.

Foreign Trade

"Exclusive Sales Agreements in Foreign Trade"; by Bernard A. Kosicki. (Trade Promotion Series 45.) Price, 10 cents. Export distribution methods, individual countries and appendix.

"International Trade in Dried Fruit"; by Leslie A. Wheeler. (Trade Promotion Series 44.) Price, 15 cents. Raisins and currants, prunes, dried figs, dates, dried deciduous fruits, characteristics of leading markets for dried fruit, etc.

"Foreign Markets for Miscellaneous Leather Goods"; compiled by shoe and leather manufactures division. (Trade Information Bulletin 474.) Price, 10 cents. Pocketbooks and purses, leather belts, leather garments, hat sweats, etc.

"Foreign Markets for Trunks, Bags and Suitcases." (Trade Information Bulletin 473.) Price, 10 cents. Trunks, Argentina, Australia, Austria, Azores, etc., and bags and suitcases, Belgium, Brazil, Canada, etc.

"Markets for Motorboats, Marine Engines and Accessories"; by E. Flehr. (Trade Information Bulletin 481.) Price, 10 cents. Markets in North America, Canada, Cuba, Porto Rico, Mexico, etc.

"Origin and Development of the Continental Steel Entente"; by J. Joseph W. Palmer. (Trade Information Bulletin 484.) Price, 10 cents. European steel industry since the war, negotiations leading up to signing of the steel accord, text of the accord, comments on continental steel entente, etc.

"Paper and Paper Products in Colombia, Venezuela, Ecuador and the Guianas"; compiled by B. M. Frost. (Trade Information Bulletin 477.) Price, 10 cents. Colombian paper market, varieties in greatest demand, distribution, tariff duties and packing, etc.

"Rice Trade in the Far East"; by J. A. LeClerc. (Trade Promotion Series 46.) Price, 10 cents. Foreword, general discussion, position of far eastern countries in the rice trade, India, China, Hongkong, French Indo-China, etc.

"Iron and Steel Trade and Industry of the Netherlands"; by Jesse F. Van Wickel and J. J. W. Palmer. (Trade Information Bulletin 470.) Price, 10 cents. History of pig-iron industry of the Netherlands, production of pig-iron in the Netherlands, iron and steel trade and industry during 1926, etc.

"Palm-Oil Industry of Sumatra and West Africa"; by S. B. Redecker and F. Messenger. (Trade Information Bulletin 471.) Price, 10 cents. Origin of Sumatra oil-palm trees, production increase since 1919, estimated future production, concentration in Sumatra east coast, scientific methods employed, etc.

"Advertising Automotive Products in Africa"; by J. A. G.

Pennington. (Trade Information Bulletin 479.) Price, 10 cents. The automobile in Africa, basic factors, advertising mediums, etc.

"Ethiopia, Commercial and Economic Survey"; by J. Loder Park. (Trade Information Bulletin 478.) Price, 10 cents. Industrial and agricultural production, demand for foreign products, foreign trade, Ethiopian currency, etc.

"Hawaii, Its Resources and Trade"; by Emmett A. Chapman. (Trade Information Bulletin 473.) Price, 10 cents. Introduction, location and topography, Government lands, administration, banking, etc.

"Business Practice in Greece"; by Edwin A. Plitt. (Trade Information Bulletin 472.) Price, 10 cents. Conditions affecting the market, reaching the market, communication facilities, advertising and display facilities, etc.

Forestry

"Forestry As a Profession"; by Edward A. Sherman. (Forest Service.) Price, 5 cents. Field of work, Government work, how forest service force is recruited, positions and salaries in service, etc.

"Check List of Forest Trees of United States, Their Names and Ranges"; by Geo. B. Sudworth. (Agric. Dept., Misc. Circular 92.) Price, 40 cents. Important forest trees, common names of trees, naturalized trees, etc.

"Forest Fire Prevention Handbook for Schools of New Mexico." (Agric. Misc. Circular 89.) Price, 10 cents. Information for the teacher, forests of New Mexico, forest fires, effects, etc.

"National Forests of Wyoming." (Agric. Misc. Circular 82.) Price, 10 cents. Map showing national forests of Wyoming, southern Wyoming, western Wyoming, map showing State game preserves of Wyoming, etc.

"The Abney Level Handbook"; by H. A. Calkins and J. B. Yule. (Forest Service.) Price, 10 cents. Introduction, design and description, adjustments, uses and tables.

Fish

"The Smelts"; by William Converse Kendall. (Bureau of Fisheries Document 1015.) Price, 60 cents. The smelt family, Atlantic marine smelts, fresh-water smelts, habits, etc.

Interstate Commerce Commission

"Rules of Practice Before the Commission in Proceedings Under the Interstate Commerce Act, With Approved Forms; revised, amended and adopted April 20, 1927." (Interstate Commerce Commission.) Price, 10 cents.

"Decisions of Interstate Commerce Commission of the United States, Vol. 111, Finance Reports, April-September, 1926." Price, \$2.25. Members of the commission, table of decisions, table of cases cited, opinions of the commission, etc.

"Interstate Commerce Commission Reports, Vol. 113, Decisions of the Interstate Commerce Commission of United States, June-July, 1926." Price, \$2.25. Members of commission, table of cases reported, table of cases cited, etc.

"Interstate Commerce Commission Reports, Vol. 114, June-September, 1926, Valuation Reports." Price, \$2.25. Members of the commission, table of cases, table of cases cited, opinions of the commission, index digest, etc.

"Interstate Commerce Commission Reports, Vol. 115, July-October, 1926." Price, \$2.25. Members of the commission, table of cases, table of cases cited, opinions of the commission, etc.

"Interstate Commerce Commission Reports, Vol. 116, September-November, 1926, Valuation Reports." Price, \$2.25. Members of the commission, table of cases, table of cases cited, opinions of the commission, etc.

Labor

"Wages and Hours of Labor in the Men's Clothing Industry, 1911 to 1926." (Labor Statistics Bulletin 435.) Price, 10 cents. Introduction and summary, average and classified earnings per hour, regular or customary hours of operation, etc.

"Safety Code for the Use, Care and Protection of Abrasive Wheels." (Labor Statistics Bulletin 436.) Price, 10 cents. Introduction, scope and definitions, types of protection devices, storage and inspection of wheels, general machine requirements, protection hoods, work rests, etc.

"Co-operative Movement in United States in 1925 (other than Agricultural)." (Labor Statistics Bulletin 437.) Price, 25 cents. Scope of investigation, geographical distribution of societies reporting, general development of co-operation in United States, credit societies, etc.

Manufactures

"Manufactured Ice." (Bureau of the Census.) Price, 5 cents. Description of industry, wage-earners, consumption of calcium chloride and sodium chloride, and tables.

"Furniture." (Bureau of the Census.) Price, 5 cents. Description of industry, combination of "Furniture" and "Show-cases" industries, and tables.

"Production of Sponge Iron"; by C. E. Williams and others. (Mines Bulletin 270.) Price, 35 cents. Introduction, review of sponge-iron processes, processes for production of sponge iron, vertical retort furnaces, etc.

"The Red Cedar Shingle Industry." (Report of U. S. Tariff Commission to President of United States.) Price, 20 cents. Production of shingles, cost of production inquiry, history and present status of Pacific Coast shingle industry, competition between American and Canadian shingles, etc.

"Manufacturing Tests of Cotton of the White Grades of the Universal Standards for American Cotton"; by Horace H. Willis. (Agric. Bulletin 1488.) Price, 10 cents. Purpose of test, mechanical conditions, percentages of waste, moisture conditions, waste and cotton per 500-pound bale, etc.

"Comparative Tests of Six-Inch Cast-Iron Pipes of American and French Manufacture"; by S. N. Petrenko. (Standards Technologic Papers 336.) Price, 15 cents. Introduction, acknowledgments, methods of manufacture of pipes, selection of samples, test specimens, testing procedure, etc.

"Color in the Sugar Industry"; by H. H. Peters and F. P. Phelps. (Standards Technologic Papers 338.) Price, 20 cents. Color nomenclature in sugar industry, colorimetric clarification of turbid sugar solutions, etc.

"Petroleum in 1925"; by G. R. Hopkins and A. B. Coons. (From Mineral Resources of United States, 1925, pt. 2.) Price, 10 cents. Production, imports and exports, shipments to non-contiguous territories, consumption, prices, etc.

Mining

"Placer-Mining Methods and Costs in Alaska"; by Norman L. Wimmier. (Mines Bulletin 259.) Price, 55 cents. Introduction, history, future of Alaska placer mining, natural conditions, costs, prospecting, etc.

"Subsidence Due to Coal Mining in Illinois"; by C. A. Herbert and J. J. Rutledge. (Mines Bulletin 238.) Price, 30 cents. Foreword, introduction, observations at A in the northern Illinois longwall coal field, observations at B in Perry County, observations at C in Macoupin County, etc.

"Quarry Problems in the Lime Industry"; by Oliver Bowles and W. M. Myers. (Mines Bulletin 269.) Price, 25 cents. Quarry operations, drilling and blasting, utilization of waste rock at lime plants, other uses for waste limestone, etc.

Miscellaneous

"Sound Proofing of Apartment Houses"; by V. L. Chrisler. (Standards Technologic Papers 337.) Price, 5 cents.

"Central Light and Power Plants in Western Hemisphere"; compiled by Howard E. Way. (Trade Information Bulletin 469.) Price, 10 cents. North America, New Foundland, United States and possessions, Mexico, etc.

"Noteworthy Maps With Charts, Views and Atlases, Accessions, 1925-26"; compiled by Lawrence Martin. (Library of Congress.) Price, 5 cents.

"Thirty-Ninth Annual Report on Statistics of Railways in United States, for Year Ended December 31, 1925." (Interstate Commerce Commission.) Price, \$1.30. Mileage, receiverships, equipment, railway employees, etc.

"American Samoa, a General Report by the Governor." Price, 30 cents. Land and the people, Samoan chronology, Government, Government departments and activities, communication, transportation, etc.

"Digest of Decisions of Department of Interior in Cases Relating to Public Lands, Vols. 1 to 50, Inclusive, Pt. 2"; compiled by Daniel M. Greene. Price, 75 cents. Cases reported, cases cited, cases overruled and modified, circulars and instructions, circulars by number, etc.

"Federal Reclamation Laws Annotated, March, 1927." (Bureau of Reclamation.) Price, 50 cents. Confirmation of western water rights, irrigation surveys of the arid region, restoration of withdrawn lands, etc.

Public Health

"Report on Municipal Sanitary Engineering Practice in Great Britain"; by H. W. Streeter. (Public Health Bulletin 106.) Price, 15 cents. Sanitary administration, water supply,

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